



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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CHAPTER 54

GUARDIANS AND WARDS

SUBCHAPTER I

DEFINITIONS

54.01 Definitions. In this chapter:

(1) "Activities of daily living" means bathing; dressing; eating; mobility; transferring from a surface, including a bed, to another surface, including a chair; and toileting.

(2) "Agency" means any public or private board, corporation, or association which, including a county department under s. 51.42 or 51.437, that is concerned with the specific needs and problems of mentally retarded, developmentally disabled, mentally ill, alcoholic, drug dependent and aging persons, including a county department under s. 51.42 or 51.437 individuals with mental retardation, developmental disability, mental illness, alcoholism, or drug dependency and of aging individuals.

1 (3) “Conservator” means a person who is appointed or qualified by a court at
2 an individual’s request under s. 54.76 (2) to manage the estate of the individual.

3 (3m) “Durable power of attorney” has the meaning given in s. 243.07 (1) (a).

4 (4) “Guardian” means ~~one~~ a person appointed by a court to ~~have care, custody~~
5 ~~and control of the person~~ act on behalf of a minor or an incompetent or the
6 ~~management of to provide for the personal needs or manage~~ the estate of a minor, an
7 incompetent, or a spendthrift.

8 (5) “Incapacity” has the meaning given in s. 155.01 (8).

9 (6) (intro.) “Incompetent” means ~~a person adjudged by a court of record to be~~
10 ~~substantially incapable of managing~~ an individual who is unable to meet the
11 essential requirements for his or her physical health or safety or to be unable
12 adequately to manage his or her property or caring for himself or herself by reason
13 ~~of infirmities of aging, developmental disabilities, or other like incapacities. Physical~~
14 ~~disability without mental incapacity is not sufficient to establish incompetence.~~
15 financial affairs so as to meet the essential requirements for his or her physical
16 health or safety, because of all of the following:

17 (a) The inability to receive and evaluate information effectively or to
18 communicate decisions.

19 (b) Mental deficiency, physical illness, physical disability, chronic mental
20 illness, chronic alcohol abuse, chronic use of prescription drugs, as defined in s.
21 450.01 (20), or controlled substances, as defined in s. 961.01 (4), or any other physical
22 or mental reason.

23 (7) ~~“Developmentally disabled person~~ Individual with developmental
24 disability” means any individual having a disability attributable to mental
25 retardation, cerebral palsy, epilepsy, autism or another neurological condition

1 closely related to mental retardation or requiring treatment similar to that required
2 for mentally retarded individuals, which has continued or can be expected to
3 continue indefinitely, substantially impairs the individual from adequately
4 providing for his or her own care or custody, and constitutes a substantial handicap
5 to the afflicted individual. The term does not include a ~~person~~ an individual affected
6 by senility which is primarily caused by the process of aging or the infirmities of
7 aging.

8 (8) "Infirmities of aging" means organic brain damage caused by advanced age
9 or other physical degeneration in connection ~~therewith~~ with advanced age to the
10 extent that ~~the person so afflicted~~ an individual is substantially impaired in ~~his or~~
11 ~~her~~ ability to adequately provide for his or her own care or custody.

12 (9) "Interested person" means any of the following:

13 (a) For purposes of a petition for guardianship or protective placement, any of
14 the following:

- 15 1. The proposed ward, if he or she has attained 14 years of age.
- 16 2. The spouse or adult child of the proposed ward, or the parent of a proposed
17 ward who is a minor.
- 18 3. For a proposed ward who has no spouse, child, or parent, any heir at law of
19 the proposed ward.
- 20 4. Any individual who is nominated as fiduciary or appointed to act as fiduciary
21 for the proposed ward by a court of any state, any trustee for a trust established by
22 or for the proposed ward, or any person appointed as agent under a power of attorney
23 for health care or as attorney-in-fact under a durable power of attorney.

1 5. If the proposed ward is a minor, the individual who has exercised principal
2 responsibility for the care and custody of the proposed ward during the period of 60
3 consecutive days immediately before the filing of the petition.

4 6. If the proposed ward is a minor and has no living parent, any individual
5 nominated to act as fiduciary for the minor in a will or other written instrument that
6 was executed by a parent of the minor.

7 7. If the proposed ward is receiving moneys paid, or if moneys are payable, by
8 the federal department of veterans affairs, a representative of the federal
9 department of veterans affairs, or, if the proposed ward is receiving moneys paid, or
10 if moneys are payable, by the state department of veterans affairs, a representative
11 of the state department of veterans affairs.

12 8. If the proposed ward is receiving long-term support services or similar public
13 benefits, the county department of human services or social services that is providing
14 the services or benefits.

15 9. The corporation counsel of the county in which the petition is filed and, if the
16 petition is filed in a county other than the county of the proposed ward's residence,
17 the corporation counsel of the county of the proposed ward's residence.

18 10. Any other person required by the court.

19 (b) For purposes of proceedings following the hearing on the petition for
20 guardianship or protective placement, any of the following:

21 1. The guardian.

22 2. The spouse or adult child of the ward or the parent of a minor ward.

23 3. Any other individual that the court may require, including any fiduciary that
24 the court may designate.

25 4. The county of venue, if the county has an interest.

1 (10) “Meet the essential requirements for physical health or safety” means
2 perform those actions necessary to provide the health care, food, shelter, clothes,
3 personal hygiene, and other care without which serious physical injury or illness will
4 likely occur.

5 (11) “Not competent to refuse psychotropic medication” means that, because
6 of chronic mental illness, as defined in s. 51.01 (3g), and after the advantages and
7 disadvantages of and alternatives to accepting the particular psychotropic
8 medication have been explained to an individual, one of the following is true:

9 (a) The individual is incapable of expressing an understanding of the
10 advantages and disadvantages of accepting treatment and the alternatives.

11 (b) The individual is substantially incapable of applying an understanding of
12 the advantages, disadvantages and alternatives to his or her chronic mental illness
13 in order to make an informed choice as to whether to accept or refuse psychotropic
14 medication.

15 (12) “Physician” has the meaning given in s. 448.01 (5).

16 (13) “Psychologist” has the means a licensed psychologist, as defined given in
17 s. 455.01 (4).

18 (14) “Spendthrift” means an individual who, because of the use of intoxicants
19 or drugs or because of gambling, idleness, debauchery, or other wasteful course of
20 conduct, is unable to attend to business or is likely to affect the health, life, or
21 property of himself or herself or others so as to endanger his or her support and
22 dependents or expose the public to the support.

23 (15) “Standby guardian” means any individual designated by the court under
24 s. 54.52 (2) whose appointment as guardian becomes effective immediately upon the

1 death, incapacity, or resignation of the initially-appointed guardian, or if the
2 initially appointed guardian is unable or unavailable to fulfill his or her duties.

3 (16) "Ward" means an individual for whom a guardian has been appointed.

4 SUBCHAPTER II

5 APPOINTMENT OF GUARDIAN

6 **54.10 Appointment of guardian; determination of incompetence. (1)**

7 STANDARD. A court of appropriate jurisdiction may appoint a guardian, or separate
8 guardians of the person and of the estate, for an individual who is a proposed ward
9 if the court determines that any of the following applies:

10 (a) The individual is a minor.

11 (b) The individual is an incompetent and the appointment is necessary for at
12 least one of the following reasons:

13 1. To provide for the personal needs of the individual, including food, clothing,
14 shelter, health care, or safety.

15 2. To manage the property and financial affairs of the individual.

16 (2) NECESSITY OF APPOINTMENT. In determining whether the appointment of a
17 guardian is necessary under sub. (1) (b), the court shall consider all of the following:

18 (a) The report of the guardian ad litem, as required under s. 54.40 (4) (b).

19 (b) The sufficiency and reliability of available resources to provide for the
20 individual's personal needs or property management without the appointment of a
21 guardian.

22 (3) DETERMINATION OF INCOMPETENCE. All of the following apply to the
23 determination under sub. (1) (b) that an individual is an incompetent:

24 (a) The determination shall be based on clear and convincing evidence; may
25 not, unless the proposed ward has a severe inability to communicate, be based on

1 mere old age, eccentricity, poor judgment, or physical disability; and shall require a
2 finding that the individual is likely to suffer harm because of all of the following:

3 1. The individual is unable to provide for personal needs or property
4 management.

5 2. The individual cannot adequately understand and appreciate the nature and
6 consequences of the inability under subd. 1.

7 (b) In reaching its determination, the court shall give primary consideration
8 to the functional level and functional limitations of the individual, including an
9 assessment of all of the following:

10 1. The individual's management of the activities of daily living.

11 2. The individual's understanding and appreciation of the nature and
12 consequences of any inability he or she may have to manage the activities of daily
13 living.

14 3. The individual's preferences, desires, and values with regard to management
15 of the activities of daily living.

16 4. The nature and extent of the individual's property and financial affairs and
17 his or her ability to manage them.

18 5. The extent of the demands placed on the individual by his or her personal
19 needs and by the nature and extent of his or her property and financial affairs.

20 6. Any physical illness of the individual and the prognosis of the illness.

21 7. Any mental disability, alcoholism, or substance dependence of the individual
22 and the prognosis of the mental disability, alcoholism, or substance dependence.

23 8. Any medication with which the individual is being treated and the
24 medication's effect on the individual's behavior, cognition, and judgment.

1 (c) In addition to the assessment under par. (b), the court shall consider all
2 other relevant facts and circumstances regarding all of the following:

3 1. The individual's functional level.

4 2. The individual's understanding and appreciation of the nature and
5 consequences of his or her functional limitations.

6 **54.12 Exceptions to appointment of guardian.** (1) EMANCIPATION OF
7 MARRIED MINORS. Except for minors found to be incompetent incompetents, upon
8 marriage, a minor ~~shall is~~ no longer be a proper subject for guardianship of the
9 person and a A guardianship of the person is revoked by the marriage of a minor
10 ward. Upon application, the court may release in whole or in part the estate of a
11 minor ward to the ward upon the ward's marriage. ~~Upon marriage, the guardianship~~
12 ~~of an incompetent is subject to review under s. 880.34.~~

13 (2) SMALL ESTATES. If a minor or an incompetent, except for his or her incapacity,
14 is entitled to possession of possess personal property of a value of valued at \$10,000
15 or less, any court ~~wherein~~ in which an action or proceeding involving said the
16 property is pending may, ~~in its discretion~~, without requiring the appointment of a
17 guardian, order that the clerk of court do one of the following:

18 (a) Deposit the property in a savings account in a bank, ~~the payment of whose~~
19 ~~accounts in cash immediately upon default of the bank are~~ or other financial
20 institution insured by an agency of the federal deposit insurance corporation; deposit
21 ~~in a savings account in a savings bank or a savings and loan association that has its~~
22 ~~deposits insured by the federal deposit insurance corporation; deposit in a savings~~
23 ~~account in a credit union having its deposits guaranteed by the Wisconsin credit~~
24 ~~union savings insurance corporation or by the national board, as defined in s. 186.01~~
25 ~~(3m);~~ government or invest the property in interest-bearing obligations of the

1 United States. The fee for ~~the clerk's services~~ of the clerk of court in depositing and
2 disbursing the funds under this paragraph is prescribed in s. 814.61 (12) (a).

3 (b) ~~Payment~~ Make payment to the natural guardian of the minor or to the
4 person having actual custody of the minor.

5 (c) ~~Payment~~ Make payment to the minor.

6 (d) ~~Payment~~ Make payment to the person having actual or legal custody of the
7 incompetent or to the person providing for the incompetent's care and maintenance
8 for the benefit of the incompetent.

9 (e) Make payment to the agent under a durable power of attorney of the ward.

10 (3) INFORMAL ADMINISTRATION. If a minor or an incompetent, except for his or
11 her incapacity, is entitled to possession of personal property of a value of ~~\$5,000~~
12 \$10,000 or less from an estate administered through informal administration under
13 ch. 865, the personal representative may, without the appointment of a guardian, do
14 any of the following:

15 (a) With the approval of the register in probate, take one of the actions ~~under~~
16 specified in sub. (2) (a) to (e).

17 (b) With the approval of the guardian ad litem of the minor or incompetent, take
18 one of the actions ~~under~~ specified in sub. (2) (a) to (e) and file proof of the action taken
19 and of the approval of the guardian ad litem with the probate registrar instead of
20 filing a receipt under s. 865.21.

21 (4) UNIFORM GIFTS AND TRANSFERS TO MINORS. If a minor, except for his or her
22 incapacity, is entitled to possession of personal property of any value, any court
23 ~~wherein~~ in which an action or proceeding involving the property is pending may,
24 without requiring the appointment of a guardian, order payment, subject to any
25 limitations the court may impose, to a custodian for the minor designated by the

1 court under ss. ~~880.61 to 880.72~~ subch. III of ch. 880 or under the uniform gifts to
2 minors act or uniform transfers to minors act of any other state.

3 SUBCHAPTER III

4 NOMINATION OF GUARDIAN;

5 POWERS AND DUTIES; LIMITATIONS

6 **54.15 ~~Nomination; selection of guardians~~ Selection of guardian;**
7 **nominations; preferences; other criteria.** The court ~~shall do one of the following~~
8 ~~and shall consider all of the following~~ nominations made by any interested person
9 and, in its discretion, shall appoint a proper guardian, having due regard for the
10 following ~~, applicable preferences, and criteria in determining who is appointed as~~
11 ~~guardian:~~

12 (1) AGENT UNDER DURABLE POWER OF ATTORNEY. The court shall appoint as
13 guardian the agent under a proposed ward's durable power of attorney, unless the
14 court finds that the appointment of the agent is not in the best interests of the
15 proposed ward.

16 (2) ~~ANTICIPATORY NOMINATION; PREFERENCE~~ PERSON NOMINATED BY PROPOSED WARD.
17 Any person individual other than a minor may, ~~at such time as if~~ the person
18 individual has sufficient capacity to form an intelligent preference, execute a written
19 instrument, in the same manner as the execution of a will under s. 853.03,
20 nominating a person another to be appointed as guardian of his or her person or
21 property or both ~~in the event that if~~ a guardian is in the future appointed. ~~Such~~
22 ~~nominee shall be appointed as guardian by the~~ for the individual. The court shall
23 appoint this nominee as guardian unless the court finds that the appointment of such
24 nominee is not in the best interests of the person ~~for whom, or for whose property, the~~
25 ~~guardian is to be appointed~~ proposed ward.

1 (3) ~~PREFERENCE~~ PARENT OF A PROPOSED WARD. If one or both of the parents of a
2 minor, ~~a developmentally disabled person~~ an individual with developmental
3 disability, or a person with other like incapacity are suitable and willing, the court
4 shall appoint one or both of ~~them~~ as guardian unless the proposed ward objects. The
5 ~~court shall appoint a corporate guardian under s. 880.35 only if no suitable~~
6 ~~individual guardian is available.~~

7 (4) ~~TESTAMENTARY GUARDIANSHIP OF CERTAIN PERSONS~~ NOMINATION BY PROPOSED
8 WARD'S PARENTS. Subject to the rights of a surviving parent, a parent may by will
9 nominate a guardian and successor guardian of the person or estate of ~~for~~ any of his
10 or her minor children who ~~are~~ is in need of guardianship. For ~~a person~~ an individual
11 who is over the age of 18 and is found to be in need of guardianship under s. 880.33
12 54.10 by reason of a developmental disability or other like incapacity, a parent may
13 by will nominate a testamentary guardian. The parent may waive the requirement
14 of a bond for such an estate that is derived through the will.

15 (5) ~~NONPROFIT CORPORATION AS GUARDIAN~~ PRIVATE NONPROFIT CORPORATION OR
16 OTHER ENTITY. A private nonprofit corporation organized under ch. 181, 187, or 188
17 ~~is qualified to act~~ or any other nonprofit or for profit entity that is approved by the
18 court may be appointed as guardian of the person or of the property or both, of ~~an~~
19 ~~individual found to be in need of guardianship under s. 880.33, if a proposed ward,~~
20 if no suitable individual is available as guardian and the department of health and
21 family services, under rules established under ch. 55, finds the corporation or entity
22 to be a suitable agency to perform such duties.

23 (6) OPINIONS OF PROPOSED WARD AND FAMILY. ~~In appointing a guardian, the~~ The
24 court shall take into consideration the opinions of the ~~alleged incompetent proposed~~
25 ward and of the members of the his or her family as to what is in the best interests

1 of the proposed ~~incompetent~~ ward. However, the best interests of the proposed
2 ~~incompetent~~ ward shall control in making the determination when the opinions of
3 the family are in conflict with ~~the clearly appropriate decision~~ those best interests.
4 The court shall also consider potential conflicts of interest resulting from the
5 prospective guardian's employment or other potential conflicts of interest. If the
6 proposed ~~incompetent~~ ward has executed a power of attorney for health care under
7 ch. 155, the court shall ~~give consideration to the appointment of the health care agent~~
8 ~~for the individual~~ consider appointing the agent under that power of attorney as the
9 individual's guardian.

10 (7) STATEMENT OF ACTS BY PROPOSED GUARDIAN. (a) At least 96 hours before the
11 hearing under s. 54.44, the proposed guardian shall submit to the court a sworn and
12 notarized statement as to whether any of the following is true:

13 1. The proposed guardian has been convicted of a crime, as defined in s. 939.12.

14 2. The proposed guardian has filed for or received protection under the federal
15 bankruptcy laws.

16 3. Any license, certificate, permit, or registration of the proposed guardian that
17 is required under chs. 440 to 480 or by the laws of another state for the practice of
18 a profession or occupation has been suspended or revoked.

19 (b) If par. (a) 1., 2., or 3. applies to the proposed guardian, he or she shall include
20 in the sworn and notarized statement a description of the circumstances
21 surrounding the applicable event under par. (a) 1., 2., or 3.

22 (8) LIMITATION ON NUMBER OF WARDS OF GUARDIAN. No ~~person~~ one, except a
23 nonprofit corporation approved by the department of health and family services
24 under s. 880.35 54.15 (5), who has guardianship of the person of 5 or more adult
25 wards who are unrelated to ~~the person~~ him or her may accept appointment as

1 guardian of the person of another unrelated adult ward ~~unrelated to the person,~~
2 unless approved by the ~~department~~ court. No such person individual may accept
3 appointment as guardian of more than 10 such adult wards who are unrelated to the
4 person him or her, and no approved nonprofit corporation may accept appointment
5 as guardian of more than 10 adult wards.

6 **54.18 General duties and powers of guardian; limitations; immunity.**

7 (1) A ward retains all his or her rights that are not assigned to the guardian or
8 otherwise limited by statute. A guardian acting on behalf of a ward may exercise only
9 those powers that the guardian is authorized to exercise by statute or court order.
10 A guardian may be granted only those powers necessary to provide for the personal
11 needs or property management of the ward in a manner that is appropriate to the
12 ward and that constitutes the least restrictive form of intervention.

13 (2) A guardian shall do all of the following:

14 (a) Exercise the degree of care, diligence, and good faith when acting on behalf
15 of a ward that an ordinarily prudent person exercises in his or her own affairs.

16 (b) Act in all proceedings of the ward as the ward's advocate, including, if the
17 ward is protectively placed under ch. 55 and if applicable, advocating for the ward's
18 applicable rights under ss. 50.09 and 51.61.

19 (c) Exhibit the utmost degree of trustworthiness, loyalty, and fidelity in relation
20 to the ward.

21 (3) No guardian may do any of the following:

22 (b) ~~No guardian shall purchase~~ Purchase property of the ward, ~~unless sold at~~
23 ~~public sale~~ except at fair market value, subject to ch. 786, and with the approval of
24 the court, ~~and then only if the guardian is a spouse, parent, child, brother or sister~~
25 ~~of the ward or is a cotenant with the ward in the property.~~

1 (h) ~~No guardian shall lend guardianship~~ Lend funds of the ward to himself or
2 herself.

3 (4) ~~Any~~ A guardian of the person or of the estate is immune from civil liability
4 for his or her acts or omissions in performing the duties of the guardianship if he or
5 she performs the duties in good faith, in the best interests of the ward, and with the
6 degree of diligence and prudence that an ordinarily prudent person exercises in his
7 or her own affairs.

8 **54.19 Duties of guardian of the estate.** Except as specifically limited in the
9 order of appointment, the guardian of the estate shall do all of the following in order
10 to provide a ward with the greatest amount of independence and self-determination
11 with respect to property management in light of the ward's functional level,
12 understanding, and appreciation of his or her functional limitations and the ward's
13 personal wishes and preferences with regard to managing the activities of daily
14 living:

15 (1) ~~The guardian of the estate shall take~~ Take possession of all of the ward's
16 real and personal property, ~~and of any rents, income, issues, and benefits therefrom,~~
17 ~~whether accruing before or after the guardian's appointment~~ from the property, and
18 of the any proceeds arising from the sale, mortgage, lease, or exchange ~~thereof of the~~
19 property and prepare an inventory of these. Subject to ~~such~~ this possession, the title
20 of all such the estate and ~~to the increment and proceeds thereof shall be~~ of the estate
21 is in the ward and not in the guardian. ~~It is the duty of the guardian of the estate~~
22 ~~to protect and preserve it, to retain, sell and invest it as hereinafter provided, to~~
23 ~~account for it faithfully, to perform all other duties required of the guardian by law~~
24 ~~and at the termination of the guardianship to deliver the assets of the ward to the~~
25 persons entitled thereto.

1 (2) Retain, expend, distribute, sell, or invest the ward's property, rents, income,
2 issues, benefits, and proceeds and account for all of them.

3 (3) Determine, if the ward has executed a will, the will's location, determine
4 the appropriate persons to be notified in the event of the ward's death, and, if the
5 death occurs, notify those persons.

6 (4) Use the ward's income and property to maintain and support the ward and
7 any dependents of the ward and to provide for the postsecondary education expenses
8 of any children of the ward.

9 (5) Prepare and file an annual account as specified in s. 54.62.

10 (6) At the termination of the guardianship, deliver the ward's assets to the
11 persons entitled to them.

12 (7) With respect to claims, do all of the following:

13 (a) ~~Every general guardian shall pay~~ Pay the just debts of the ward ~~out of from~~
14 the ward's personal estate and the income of the ward's real estate, if sufficient, and
15 if not, then out of the ward's real estate upon selling the same as provided by law.
16 But a temporary guardian shall pay the debts of his or her ward only on order of the
17 court.

18 (b) ~~The guardian or a creditor of any ward may apply~~ Apply to the court for
19 adjustment of any claims against the ward incurred ~~prior to~~ before entry of the order
20 appointing the guardian or the filing of a lis pendens as provided in s. 880.215. The
21 court shall by order fix the time and place it will adjust claims and the time within
22 which all claims ~~must~~ shall be presented ~~or be barred~~. Notice of ~~the time and place~~
23 ~~so fixed and limited~~ these times and the place shall be given by publication as in
24 ~~estates of decedents; and all statutes relating to claims against and in favor of estates~~
25 ~~of decedents~~ provided in s. 879.05 (4), and ch. 859 generally shall apply. ~~As in the~~

1 ~~settlement of estates of deceased persons, after~~ After the court has made the order,
2 no action or proceeding may be commenced or maintained in any court against the
3 ward upon any claim of over which the circuit court has jurisdiction.

4 (8) ~~The guardian shall settle~~ Settle all accounts of the ward and may demand,
5 ~~sue for, collect and receive all debts and claims for damages due him or her, or may,~~
6 ~~with the approval of the circuit court, compound and discharge the same, and shall~~
7 appear for and represent ~~his or her~~ the ward in all actions and proceedings except
8 where those for which another person is appointed ~~for that purpose~~.

9 (9) File with the register of deeds of any county in which the ward possesses
10 real property a sworn and notarized statement that specifies the legal description of
11 the property, the date that the ward is determined to be an incompetent, and the
12 name, address, and telephone number of the ward's guardian and any surety on the
13 guardian's bond.

14 (10) Perform any other duty required by the court.

15 **54.20 Powers of guardian of the estate. (1) STANDARD.** The In exercising
16 the powers under this section, the guardian of the estate ~~may, without the approval~~
17 ~~of the court, retain any real or personal property possessed by the ward at the time~~
18 ~~of appointment of the guardian or subsequently acquired by the ward by gift or~~
19 ~~inheritance without regard to ch. 881, so long as such retention constitutes the~~
20 ~~exercise of~~ shall use the judgment and care ~~under the circumstances then prevailing,~~
21 ~~which~~ that persons of prudence, discretion, and intelligence exercise in the
22 management of their own affairs, ~~not in regard to speculation but in regard to~~
23 including the permanent, rather than speculative, disposition of their funds,
24 considering and consideration of the probable income ~~as well as the probable and~~
25 safety of their capital.

1 (2) POWERS REQUIRING COURT APPROVAL. The guardian of the estate may do any
2 of the following with respect to the ward only with prior written approval of the court,
3 including, if applicable, approval of a petition specified under s. 54.21:

4 (a) Make gifts, under the terms, including the frequency, amount, and specific
5 donees, specified by the court.

6 (b) ~~Upon petition by the guardian, a parent, the spouse, any issue or next of kin~~
7 ~~of any person, assets of the person may, in the discretion of the court and upon its~~
8 ~~order, after such notice as the court may require, be transferred~~ Transfer assets of
9 the ward to the trustee or trustees of an any existing revocable living trust created
10 ~~by the person for the benefit of~~ that the ward has created for himself or herself and
11 ~~those dependent upon the person for support~~ any dependents, or, if the ward is a
12 minor, to the trustee or trustees of a any trust created for the exclusive benefit of the
13 ~~person, if a minor, which~~ ward that distributes to him or her at age 18 or 21, or, if the
14 ward dies before age 18 or 21, to his or her estate, or as he or she appoints if he or
15 ~~she dies prior to age 18 or 21~~ the guardian appoints.

16 (c) Establish a trust as specified under 42 USC 1396p (d) (4) (A), (B), or (C) and
17 transfer assets into the trust.

18 (d) Purchase an annuity or insurance contract and exercise rights to elect
19 options or change beneficiaries under insurance and annuity policies and to
20 surrender the policies for their cash value.

21 (e) Exercise any elective rights that accrue to the ward as the result of the death
22 of the ward's spouse or parent.

23 (f) Release or disclaim any interest of the ward that is received by will, intestate
24 succession, nontestamentary transfer at death, or transfer.

1 (g) ~~A guardian of the estate appointed under this chapter for a married person~~
2 ~~may exercise with the approval of the court, except as limited under s. 880.37, any~~
3 ~~management and control right over the marital property or property other than~~
4 ~~marital property and any right in the business affairs which the married person~~
5 ~~could exercise under ch. 766 if the person were not determined under s. 880.12 to be~~
6 ~~a proper subject for guardianship. Under this section, a guardian may consent to act~~
7 ~~together in or join in any transaction for which consent or joinder of both spouses is~~
8 ~~required or may execute~~ Execute under s. 766.58 ~~a marital property agreement with~~
9 ~~the other ward's spouse, but may not make, amend or revoke a will.~~

10 (h) Provide support for an individual whom the ward is not legally obligated
11 to support.

12 (i) Convey or release a contingent or expectation interest in property, including
13 a marital property right and any right of survivorship that is incidental to a joint
14 tenancy or survivorship marital property.

15 (j) Compound and discharge all debts and claims for damage due the ward.

16 (k) In all cases ~~where~~ in which ~~the court deems it determines that it is~~
17 ~~advantageous to continue the business of a ward, such business may be continued~~
18 ~~by the guardian of the estate on such~~ continue the business on any ~~terms and~~
19 ~~conditions as may be specified in the order of the court.~~

20 (L) ~~The guardian of the estate may, with the approval of the court, after~~ After
21 ~~such notice as the court directs~~ and subject to ch. 786, ~~invest the proceeds of sale of~~
22 ~~any guardianship assets of the ward and any of the ward's other moneys in the~~
23 ~~guardian's possession in such~~ the ~~real or personal property as the court determines~~
24 ~~that is determined by the court~~ to be in the best interests of the guardianship estate,
25 ~~without regard to~~ of the ward, notwithstanding ~~ch. 881.~~

1 (3) POWERS THAT DO NOT REQUIRE COURT APPROVAL. The guardian of the estate
2 may do any of the following without first receiving the court's approval:

3 (a) Provide support from the ward's estate for an individual whom the ward is
4 legally obligated to support.

5 (b) Enter into a contract, other than a contract that is specified in sub. (2) or
6 that is otherwise prohibited under this chapter.

7 (c) Exercise options of the ward to purchase securities or other property.

8 (d) Authorize access to or release of the ward's confidential records.

9 (e) Apply for public and private benefits.

10 (f) Take any other action, except an action specified under sub. (2), that is
11 reasonable or appropriate to the duties of the guardian of the estate.

12 (g) ~~The guardian of the estate may, with the approval of the court, after such~~
13 ~~notice as the court directs, retain~~ Retain any real or personal property possessed by
14 ~~that the ward at the time of the appointment of the posseses when the guardian or~~
15 ~~subsequently acquired by~~ is appointed or that the ward acquires by gift or
16 inheritance for such period of time as shall be designated in the order of the court
17 approving such retention, without regard to ch. 881 during the guardian's
18 appointment.

19 (h) ~~The guardian of the estate may, without approval of the court, invest~~ Invest
20 and reinvest the proceeds of sale of any guardianship assets of the ward and any of
21 the ward's other moneys in the guardian's possession in accordance with ch. 881.

22 (i) ~~The guardian of the estate may, without approval of the court, sell~~ Subject
23 to ch. 786, sell any property of the guardianship estate of the ward that is acquired
24 by the guardian pursuant to sub. (4) under sub. (2) (L) or par. (h).

54.21 Petition for authority to transfer ward's assets to another. (1)

In this section, "will or similar instrument" includes a revocable or irrevocable trust, a durable power of attorney, or a marital property agreement.

(2) A guardian or other person who seeks authority to exercise a power that includes the transfer of any of a ward's assets to or for the benefit of any person shall submit to the court a petition that specifies all of the following:

(a) Whether a proceeding by anyone seeking this authority with respect to the ward's property was previously commenced and, if so, a description of the nature of the proceeding and the disposition made of it.

(b) The amount and nature of the ward's financial obligations, including moneys currently and prospectively required to provide for the ward's maintenance, support, and well-being and to provide for others dependent upon the ward for support, regardless of whether the ward is legally obligated to provide the support. If the petitioner has access to a copy of a court order or written agreement that specifies support obligations of the ward, the petitioner shall attach the copy to the petition.

(c) The property of the ward that is the subject of the petition, the proposed disposition of the property, and the reasons for the disposition.

(d) If they may be ascertained, the wishes of the ward.

(e) As specified in sub. (3), whether the ward has previously executed a will or similar instrument.

(f) A description of any significant gifts or patterns of gifts that the ward has made.

(g) The names, post-office addresses, and relationships to the ward of all of the following:

1 1. Any presumptive adult heirs of the ward.

2 2. If the ward has previously executed a will or similar instrument, the named
3 or described beneficiaries under the most recent will or similar instrument executed
4 by the ward.

5 **(3)** (a) If a ward has previously executed a will or similar instrument and the
6 petitioner is able, with reasonable diligence, to obtain a copy, the petitioner shall
7 provide the copy to the court, together with a statement that specifies all of the
8 following:

9 1. The manner in which the copy was secured.

10 2. The manner in which the terms of the will or similar instrument became
11 known to the petitioner.

12 3. The basis for the petitioner's belief that the copy is of the ward's most recently
13 executed will or similar instrument.

14 (b) If the petitioner is unable to obtain a copy of the most recently executed will
15 or similar instrument or is unable to determine if the ward has previously executed
16 a will or similar instrument, the petitioner shall provide a statement to the court that
17 specifies the efforts that were made by the petitioner to obtain a copy or ascertain the
18 information.

19 (c) If a copy of the most recently executed will or similar instrument is not
20 otherwise available, the court may order the person who has the original will or
21 similar instrument to provide a photocopy to the court for in camera examination.
22 The court may provide the photocopy to the parties to the proceeding unless the court
23 finds that doing so is contrary to the ward's best interests.

1 (4) The petitioner shall serve notice upon all of the following, together with a
2 copy of the petition, stating that the petitioner will move the court, at a time and
3 place named in the notice, for the order described in the petition:

4 (a) The persons entitled to notice under sub. ***.

5 (b) Unless the court dispenses with notice under this subsection, the persons
6 specified in sub. (2) (g), if known to the petitioner.

7 (c) The county corporation counsel, if the county has an interest in the matter.

8 (5) The court shall consider all of the following in reviewing the petition:

9 (a) The wishes of the ward, if known.

10 (b) Whether the duration of the ward's disability is likely to be sufficiently brief
11 so as to justify dismissal of the proceedings in anticipation of the ward's recovered
12 ability to decide whether, and to whom, to transfer his or her assets.

13 (c) Whether, after the proposed transfer is made, the needs of the ward, his or
14 her spouse, if any, and any other persons legally dependent upon the ward for support
15 are able to be met from the remainder of the ward's assets without resort to public
16 assistance and whether making the proposed transfer would render the ward
17 ineligible under s. 49.453 (2).

18 (d) Except for gifting that is authorized under s. 54.20 (2) (a), whether the
19 donees or beneficiaries under the proposed disposition are reasonably expected
20 objects of the ward's generosity and whether the proposed disposition is consistent
21 with any ascertained wishes of the ward or known estate plan or pattern of lifetime
22 gifts that he or she has made.

23 (e) Whether the proposed disposition will produce tax savings that will
24 significantly benefit the ward, his or her dependents, or other persons for whom the
25 ward would be concerned.

1 (f) Any other factors that the court determines are relevant.

2 (6) The court may grant the petition under sub. (2) if the court finds and records
3 all of the following:

4 (a) That the ward lacks the requisite mental capacity to perform the act for
5 which approval is sought and is not likely to regain that capacity within a reasonable
6 period of time.

7 (b) That a competent individual in the position of the ward would likely perform
8 the act under the same circumstances.

9 (c) That either of the following applies to the ward:

10 1. Before the ward lacked the requisite mental capacity to perform the act for
11 which approval is sought, he or she did not manifest intent that is inconsistent with
12 the act.

13 2. If, before the ward lacked the requisite mental capacity to perform the act
14 for which approval is sought he or she manifested intent that is inconsistent with the
15 act, it is likely that the ward would have changed his or her intent under the
16 circumstances that exist at the time of the filing of the petition.

17 (7) Nothing in this section requires a guardian to file a petition under this
18 section and a guardian is not liable or accountable to any person for having failed to
19 file a petition under this section.

20 **54.22 Petition for authority to sell, mortgage, pledge, lease, or**
21 **exchange ward's property.** The court, on the ~~application~~ petition of the guardian
22 of the estate or of any other person interested in the estate of ~~any a~~ a ward, after ~~such~~
23 ~~notice if any, as~~ any notice that the court directs, may authorize or require the
24 guardian to sell, mortgage, pledge, lease, or exchange any property of the
25 guardianship estate of the ward upon such terms as the court may order, subject to

1 ch. 786, for the purpose of paying the ward's debts, providing for the ward's care,
2 maintenance, and education and the care, maintenance, and education of the ward's
3 dependents, investing the proceeds, or for any other purpose ~~which~~ that is in the best
4 interest of the ward.

5 **54.23 Trust Banks and trust companies; exemption from investment**
6 **restraints.** The limitations of ~~this section ss. 54.18 (3) (a) and (b), 54.19 (1), (2), and~~
7 ~~(6), and 54.20 (1), (2) (k) and (L), and (3) (g), (h), and (i)~~ relating to retention, sale,
8 investment, or reinvestment of any asset shall not be applicable to any bank or trust
9 company authorized to exercise trust powers.

10 **54.25 Guardian Duties and powers of guardian of the person of**
11 **incompetent.** (1) DUTIES. A guardian of the person shall do all of the following:

12 (a) ~~A guardian of the person of an incompetent appointed under s. 880.33 shall~~
13 ~~make~~ Make an annual report on the condition of the ward to the court that ordered
14 the guardianship and to the county department designated under s. 55.02. ~~That~~
15 ~~county department~~ The county shall develop reporting requirements for the
16 guardian of the person. The report shall include, ~~but not be limited to,~~ the location
17 of the ward, the health condition of the ward, any recommendations regarding the
18 ward, and a statement of as to whether or not the ward is living in the least restrictive
19 environment consistent with the needs of the ward. ~~The guardian may fulfill the~~
20 ~~requirement under this subsection by submitting the report required under s. 55.06~~
21 ~~(10).~~

22 (b) ~~A guardian of the person shall endeavor~~ Endeavor to secure any necessary
23 care, or services ~~or appropriate protective placement on behalf of~~ for the ward. that
24 are in the ward's best interests, based on all of the following:

1 1. Regular inspection in person of the ward's condition, surroundings, and
2 treatment.

3 2. Examination of the ward's patient health care records and treatment
4 records.

5 3. Attendance at and participation in staff meetings of any facility in which the
6 ward resides or is a patient, if the meeting includes a discussion of the ward's
7 treatment and care.

8 4. Inquiry into the risks and benefits of, and alternatives to, treatment for the
9 ward, particularly if drastic or restrictive treatment is proposed.

10 (c) A guardian of the person of an incompetent, upon order of the court, may
11 have custody of the person, may receive all notices on behalf of the person, and may
12 act in all proceedings as an advocate of the person, but may not have the power to
13 bind the ward or the ward's property, or to represent the ward in any legal
14 proceedings pertaining to the property, unless the guardian of the person is also the
15 guardian of the property. A guardian of the person of an incompetent or a temporary
16 guardian of the person of an incompetent may not make a permanent protective
17 placement of the ward unless ordered by a court under s. 55.06 but may admit a ward
18 to certain residential facilities under s. 55.05 (5) or make an emergency protective
19 placement under s. 55.06 (11). The guardian of the person has the power to apply for
20 placement under s. 55.06 and for commitment under s. 51.20 or 51.45 (13).

21 **(2) POWERS.** Consistent with the functional limitations of the ward, the court
22 may authorize the guardian of the estate to do all of the following:

23 (a) Make decisions concerning the ward's personal caregivers.

24 (b) Make decisions concerning the ward's social environment and other aspects
25 of the ward's social life, including marriage.

1 (c) Restrict travel by the ward.

2 (d) Authorize the ward to obtain, retain, or renew a license, permit,
3 registration, or certification for which the ward is determined to be qualified, or
4 restrict the ward from obtaining, retaining, or renewing such a license, permit,
5 registration, or certification.

6 (e) Authorize access to or release of the ward's confidential records.

7 (f) Make decisions concerning the ward's education.

8 (g) Apply for public and private benefits if a guardian of the estate has not been
9 appointed and if no other person is authorized to so apply.

10 (h) Make decisions on consenting to health care for the ward.

11 (i) Select the ward's place of residence, including admitting the ward to a
12 nursing home or to a community-based residential facility under s. 54.50 (2) (b). In
13 making the selection, the guardian of the person may consider all of the following:

14 1. The existence and availability of social services and the ward's family and
15 friends in the community of the proposed residence.

16 2. The ward's care, comfort, maintenance, and, if appropriate, rehabilitation.

17 3. The needs of any individuals with whom the ward resides.

18 (j) Revoke the ward's durable power of attorney or power of attorney for health
19 care.

20 SUBCHAPTER IV

21 PROCEDURES

22 **54.30 Jurisdiction and venue.** (1) ~~JURISDICTION IN CIRCUIT COURT.~~ The circuit
23 court shall have has jurisdiction over all petitions for guardianship. A guardianship
24 of the estate of any person, once granted, shall extend to all of his or her estate in this

1 state and shall exclude the jurisdiction of every other circuit court, except as provided
2 in ch. 786.

3 (2) VENUE. All petitions for guardianship of residents of the state shall be
4 directed to the circuit court of the county of residence of the ~~person subject to~~
5 guardianship proposed ward or of the county in which the ~~person proposed ward~~ is
6 physically present. A petition for guardianship of the person or estate of a
7 nonresident may be directed to the circuit court of any county where in which the
8 ~~person nonresident~~ or any property of the nonresident may be found.

9 (3) CHANGE OF VENUE. (a) *Original proceeding.* The court wherein in which a
10 petition is first filed shall determine venue. If ~~it is determined~~ the court determines
11 that venue lies in another county, the court shall order the entire record certified to
12 the proper court. A court wherein in which a subsequent petition is filed shall, upon
13 being if it is satisfied of that an earlier filing took place in another court, summarily
14 dismiss such the petition.

15 (b) *Change of residence of ward or guardian.* If a guardian ~~removes from the~~
16 ~~county where appointed to another county within the state or a ward removes from~~
17 ~~the county in which he or she has resided~~ changes residence from one county to
18 another county within the state, ~~the circuit court for the county in which the ward~~
19 ~~resides may appoint a new guardian as provided by law for the appointment of a~~
20 ~~guardian. Upon verified petition of the new guardian, accompanied by a certified~~
21 ~~copy of appointment and bond if the appointment is in another county, and upon the~~
22 ~~notice prescribed by s. 879.05 to the originally appointed guardian, unless he or she~~
23 ~~is the same person, and to any other persons that the court shall order, the court of~~
24 ~~original appointment may order the guardianship accounts settled and the property~~

1 ~~delivered to the new guardian.~~ venue may be transferred to the ward's new county
2 of residence under the following procedure:

3 1. A person shall file a petition for change of venue in the county in which venue
4 for the guardianship currently lies.

5 2. The person filing the petition under subd. 1. shall give notice to the
6 corporation counsel of the county in which venue for the guardianship currently lies
7 and to the register in probate for the county to which change of venue is sought.

8 3. If no objection to the change of venue is made within 15 days after the date
9 on which notice is given under subd. 2., the circuit court of the county in which venue
10 for the guardianship currently lies may enter an order changing venue. If objection
11 to the change of venue is made within 15 days after the date on which notice is given
12 under subd. 2., the circuit court of the county in which venue for the guardianship
13 currently lies shall set a date for a hearing within 7 days after the objection is made
14 and shall give notice of the hearing to the corporation counsel of that county and to
15 the corporation counsel and register in probate of the county to which change of
16 venue is sought.

17 **54.32 Liability for fees.** ~~If the person proposed ward is an adult who is~~
18 ~~indigent, the county of legal settlement shall be~~ in which venue lies for the
19 guardianship proceeding is the county liable for any fees due the guardian ad litem
20 and, if counsel was not appointed under s. 977.08, for any legal fees due the person's
21 legal counsel. ~~If the person is a minor, the person's parents or the county of legal~~
22 ~~settlement shall be liable for any fees due the guardian ad litem as provided in s.~~
23 ~~48.235 (8).~~

24 **54.34 Petition; fees for guardianship.** (1) Any relative, ~~public official or~~
25 ~~other person,~~ may petition for the appointment of a guardian of a person subject to

1 ~~guardianship for an individual. Such~~ The petition shall state, ~~so far as may be~~ all of
2 ~~the following, if known to the petitioner:~~

3 (a) The name, date of birth, residence and post-office address of the proposed
4 ward.

5 (b) The specific nature of the proposed ward's alleged incapacity ~~with~~
6 ~~specification of the incompetency or spendthrift habits.~~

7 (c) The approximate value of the proposed ward's property and a general
8 description of its nature.

9 (d) Any assets of the proposed ward previously derived from or benefits of the
10 proposed ward now due and payable from the U.S. department of veterans affairs.

11 (e) Any other claim, income, compensation, pension, insurance or allowance to
12 which the proposed ward may be entitled.

13 (f) Whether the proposed ward has any guardian presently.

14 (g) The name and post-office address of any person nominated as guardian by
15 the petitioner.

16 (h) The names and post-office addresses of ~~the spouse and presumptive or~~
17 ~~apparent adult heirs of the proposed ward, and all other persons believed by the~~
18 ~~petitioner to be interested parties.~~

19 (i) The name and post-office address of the person or institution ~~having the ,~~
20 ~~if any, that has~~ care and custody of the proposed ward ~~or the facility, if any, that is~~
21 ~~providing care to the proposed ward.~~

22 (j) The interest of the petitioner, and, if a public official or creditor is the
23 petitioner, ~~then the fact of indebtedness or continuing liability for maintenance or~~
24 ~~continuing breach of the public peace as well as~~ and the authority of the petitioner
25 to act.

1 (k) Whether the proposed ward is a recipient of a public benefit, including
2 medical assistance or a benefit under s. 46.27.

3 (L) The agent under any current, valid power of attorney for health care or
4 durable power of attorney that the proposed ward has executed.

5 (m) Whether the petitioner is requesting a full or limited guardianship.

6 (n) Whether the proposed ward, if married, has children who are not children
7 of the current marriage.

8 (2) A petition for guardianship may also include an application for protective
9 placement or protective services or both under ch. 55.

10 (3) If a petition for guardianship of the estate is filed, the fee prescribed in s.
11 814.66 (1) (b) shall be paid by the petitioner at the time of filing of the inventory or
12 other documents setting forth the value of the estate.

13 **54.36 Examination of proposed ward.** Whenever it is proposed to appoint
14 a guardian on the ground of a proposed ward's alleged incompetency, a licensed
15 physician or licensed psychologist, or both, shall furnish a written statement
16 concerning the mental condition the court shall direct that a comprehensive
17 evaluation, based on personal examination, be made of the functional incapacity of
18 the proposed ward, based upon examination and that a statement based on the
19 evaluation be submitted to the court. The court may utilize available
20 multidisciplinary resources in the community in determining the need for the
21 guardianship. The privilege under s. 905.04 shall does not apply to this the
22 statement based on the evaluation. A copy of the statement shall be provided to the
23 proposed ward, or his or her counsel, the guardian ad litem, and the petitioner's
24 attorney. Prior to the examination, under this subsection, of a person alleged to be
25 not competent to refuse psychotropic medication under s. 880.07 (1m), the person the

1 proposed ward shall be informed that his or her statements may be used as a basis
2 for a finding of incompetency and an order for protective services, ~~including~~
3 ~~psychotropic medication or protective placement~~. The person shall also be informed
4 that he or she has a right to ~~remain silent~~ refuse to participate in the examination
5 or speak to the examiner and that the examiner is required to report to the court even
6 if the person ~~remains silent~~ does not speak to the examiner. The issuance of such a
7 warning to the person prior to each examination establishes a presumption that the
8 person understands that he or she need not speak to the examiner. Nothing in this
9 section prohibits the use of a report by a physician or psychologist that is based on
10 an examination of the proposed ward by the physician or psychologist before filing
11 the petition for appointment of a guardian, but the court will consider the recency
12 of the report in determining whether the report sufficiently describes the proposed
13 ward's current state and in determining the weight to be given to the report.

14 **54.38 Notice. (1) FORM AND DELIVERY OF NOTICE.** A notice shall be in writing
15 and shall include the names of all persons who are petitioning for guardianship. A
16 copy of the petition shall be attached to the notice. Unless otherwise provided, notice
17 may be delivered in person, by certified mail with return receipt requested, or by
18 facsimile transmission. Notice is considered to be given by proof of personal delivery
19 or by proof that the notice was mailed to the last-known address of the recipient or
20 was sent by facsimile transmission to the last-known facsimile transmission
21 number of the recipient.

22 **(2) NOTICE OF HEARING FOR APPOINTMENTS AND REHEARINGS.** (intro.) Upon the
23 filing of a petition for guardianship, ~~and the court being~~ of the person or of the estate,
24 including appointment or change of a guardian, if the court is satisfied as to

1 compliance with s. ~~880.07~~ 54.34, the court shall, ~~except as provided in sub. (3), order~~
2 delivery of notice by the petitioner of the time and place of the hearing as follows:

3 (a) ~~A petitioner shall have notice served of a petition for appointment or change~~
4 ~~of a guardian upon~~ On the proposed incompetent ward and existing guardian, if any,
5 by personal service at least 10 days before the time set for hearing. If such ~~proposed~~
6 ~~incompetent~~ the proposed ward is in custody or confinement, a the petitioner shall
7 have notice served by registered or certified mail on the proposed incompetent's
8 ward's custodian, who shall immediately serve it on the proposed incompetent ward.
9 The custodian shall inform the proposed incompetent ward of the complete contents
10 of the notice ~~and certify thereon~~ , certify on the notice that the custodian served and
11 informed the proposed incompetent ward, and return ~~and returned~~ the certificate
12 and notice to the ~~circuit judge~~. ~~The notice shall include the names of all persons who~~
13 ~~are petitioning for guardianship. A copy of the petition shall be attached to the~~
14 ~~notice. The court shall cause the proposed incompetent, if able to attend, to be~~
15 ~~produced at the hearing. The proposed incompetent is presumed able to attend~~
16 ~~unless, after a personal interview, the guardian ad litem certifies in writing to the~~
17 ~~court the specific reasons why the person is unable to attend. If the person is unable~~
18 ~~to attend a hearing because of physical inaccessibility or lack of transportation, the~~
19 ~~court shall hold the hearing in a place where the person may attend if requested by~~
20 ~~the proposed ward, guardian ad litem, adversary counsel or other interested person.~~
21 ~~Such notice shall also be given personally or by mail at least 10 days before the~~
22 ~~hearing to the proposed incompetent's counsel, if any, guardian ad litem,~~
23 ~~presumptive adult heirs or other persons who have legal or physical custody of the~~
24 ~~proposed incompetent whose names and addresses are known to the petitioner or can~~
25 ~~with reasonable diligence be ascertained, to any governmental or private agency,~~

1 ~~charity or foundation from which the proposed incompetent is receiving aid and to~~
2 ~~such other persons or entities as the court may require. The court shall then proceed~~
3 ~~under s. 880.33 court.~~

4 (b) Personally or by mail at least 10 days before the time set for hearing, to all
5 of the following:

- 6 1. The proposed ward's counsel, if any.
- 7 2. The proposed ward's guardian ad litem.
- 8 3. Any presumptive adult heirs of the proposed ward.
- 9 4. Any other interested persons, unless specifically waived by the court.
- 10 5. The agent under any durable power of attorney or power of attorney for
11 health care of the ward.
- 12 6. Any person who has legal or physical custody of the proposed ward.
- 13 7. Any public or private agency, charity, or foundation from which the proposed
14 ward is receiving aid or assistance.
- 15 8. Any person that the court requires.

16 (3) NOTICE OF HEARING FOR APPOINTMENT OF GUARDIAN FOR A MINOR. ~~When~~ If the
17 proposed ward is a minor, ~~notice shall be given~~ the court shall order distribution of
18 notice by the petitioner of the time and place of the hearing as provided in s. 879.05
19 to all of the following persons, if applicable:

- 20 (a) The proposed ward's spouse, if any.
- 21 (b) The proposed ward's ~~parents~~ parent, unless the parent's parental rights
22 have been judicially terminated.
- 23 (c) ~~A minor~~ The proposed ward, if the proposed ward is over 14 years of age,
24 unless the ~~minor~~ proposed ward appears at the hearing.

1 (d) Any other person, ~~agency, institution, welfare department or other entity~~
2 having that has the legal or actual custody of the minor.

3 (4) REHEARINGS. Notice of a rehearing to determine if a ward is a proper subject
4 to continue under guardianship shall be given as required for the appointment of a
5 guardian under subs. (1), (2), and (3).

6 (5) NOTICE OF APPOINTMENT OF GUARDIAN OF A MINOR WARD. If for any reason the
7 court fails to appoint as guardian the nominee of the minor, the guardian who
8 qualifies shall give notice of the guardian's appointment to the minor by certified
9 mail addressed to the minor's last-known post-office address and shall file an
10 affidavit of such the mailing shall be filed with the court within 10 days after the
11 issuance of letters notice is given.

12 **54.40 Guardian ad litem in incompetency cases; appointment; duties;**
13 **termination.** (1) APPOINTMENT. The court shall appoint a guardian ad litem
14 whenever it is proposed that the court appoint a guardian on the ground of
15 incompetency-under s. 880.33 54.15, protectively place a person or order protective
16 services under s. 55.06, review any protective placement or protective service order
17 under s. 55.06, or terminate a protective placement under s. 55.06, or at any other
18 time that the court determines it is necessary.

19 (2) QUALIFICATIONS. The guardian ad litem shall be an attorney admitted to
20 practice in this state and shall meet the requirement under s. 757.48 (1) (a). No
21 person who is an interested party in a proceeding, appears as counsel in a proceeding
22 on behalf of any party, or is a relative or representative of an interested party may
23 be appointed guardian ad litem in that proceeding.

24 (3) RESPONSIBILITIES. The guardian ad litem shall be an advocate for the best
25 interests of the proposed ward ~~or alleged incompetent~~ as to guardianship, protective

1 placement, and protective services. The guardian ad litem shall function
2 independently, in the same manner as an attorney for a party to the action, and shall
3 consider, but ~~shall not be~~ is not bound by, the wishes of the proposed ward ~~or alleged~~
4 ~~incompetent~~ or the positions of others as to the best interests of the proposed ward
5 ~~or alleged incompetent~~. The guardian ad litem has none of the rights or duties of a
6 general guardian.

7 (4) GENERAL DUTIES. A guardian ad litem shall do all of the following:

8 (a) Interview the proposed ward ~~or alleged incompetent~~ and explain the
9 contents of the petition, the applicable hearing procedure, the right to counsel, and
10 the right to request or continue a limited guardianship.

11 (b) Interview the proposed guardian, the proposed standby guardian, if any,
12 and any other person seeking appointment as guardian and report to the court
13 concerning the fitness of each individual interviewed to serve as guardian and
14 concerning the report under s. 54.15 (7).

15 (c) Advise the proposed ward ~~or alleged incompetent~~, both orally and in writing,
16 of that person's rights to be present at the hearing, to a jury trial, to an appeal, to
17 counsel, and to an independent medical or psychological examination on the issue
18 of competency, at county expense if the person is indigent.

19 (d) Request that the court order additional medical, psychological, or other
20 evaluation, if necessary.

21 (e) If applicable, inform the court and petitioner's attorney that the proposed
22 ward ~~or alleged incompetent~~ objects to a finding of incompetency, the present or
23 proposed placement, or the recommendation of the guardian ad litem as to the
24 proposed ward's ~~or alleged incompetent's~~ best interests or that the proposed ward's
25 ~~or alleged incompetent's~~ position on these matters is ambiguous. If the guardian ad

1 litem recommends that the hearing be held in a place other than a courtroom, the
2 guardian ad litem shall provide the information under this paragraph as soon as
3 possible.

4 (f) If the proposed ward requests representation by counsel, inform the court
5 and the petitioner or the petitioner's counsel, if any.

6 (g) Attend all court proceedings related to the guardianship.

7 (h) Present evidence concerning the best interests of the proposed ward ~~or~~
8 ~~alleged incompetent~~, if necessary.

9 (i) Report to the court on any ~~other relevant~~ matter that the court requests.

10 (5) COMMUNICATION TO A JURY. In jury trials under ch. 55 or 880, the court or
11 guardian ad litem may tell the jury that the guardian ad litem represents the
12 interests of the proposed ward ~~or alleged incompetent~~.

13 (6) TERMINATION AND EXTENSION OF APPOINTMENT. The appointment of a
14 guardian ad litem under sub. (1) terminates upon the entry of the court's final order
15 or upon the termination of any appeal in which the guardian ad litem participates,
16 even if counsel has been appointed for the proposed ward ~~or alleged incompetent~~.
17 The court may extend that appointment, or reappoint a guardian ad litem whose
18 appointment under this section has terminated, by an order specifying the scope of
19 responsibilities of the guardian ad litem. At any time, the guardian ad litem, any
20 party, or the person individual for whom the appointment is made may request that
21 the court terminate any extension or reappointment. The guardian ad litem may
22 appeal, or may participate in an appeal ~~or may do neither~~. If an appeal is taken by
23 any party and the guardian ad litem chooses not to participate in that appeal, he or
24 she shall file with the appellate court a statement of reasons for not participating.

1 Irrespective of the guardian ad litem's decision not to participate in an appeal, the
2 appellate court may order the guardian ad litem to participate in the appeal.

3 **54.42 Rights of proposed ward. (1) RIGHT TO COUNSEL. (a)** The proposed
4 ward has the right to counsel ~~whether or not present at the hearing on determination~~
5 ~~of competency. The court shall in all cases require the appointment of an attorney~~
6 ~~as guardian ad litem in accordance with s. 757.48 (1) and shall in addition require~~
7 ~~representation by full legal counsel whenever the petition contains the allegations~~
8 ~~under s. 880.07 (1m) or if, at least 72 hours before the hearing, the alleged~~
9 ~~incompetent requests; the guardian ad litem or any other person states that the~~
10 ~~alleged incompetent is opposed to the guardianship petition; or the court determines~~
11 ~~that the interests of justice require it. The proposed ward has the right to a trial by~~
12 ~~a jury if demanded by the proposed ward, attorney or guardian ad litem, except that~~
13 ~~if the petition contains the allegations under s. 880.07 (1m) and if notice of the time~~
14 ~~set for the hearing has previously been provided to the proposed ward and his or her~~
15 ~~counsel, a jury trial is deemed waived unless demanded at least 48 hours prior to the~~
16 ~~time set for the hearing. The number of jurors shall be determined under s. 756.06~~
17 ~~(2) (b). The proposed ward, attorney or guardian ad litem shall have the right to~~
18 ~~present and cross-examine witnesses, including the physician or psychologist~~
19 ~~reporting to the court under sub. (1). The attorney or guardian ad litem for the~~
20 ~~proposed ward shall be provided with a copy of the report of the physician or~~
21 ~~psychologist at least 96 hours in advance of the hearing. Any final decision of the~~
22 ~~court is subject to the right of appeal. if any of the following occurs:~~

- 23 1. At least 72 hours before the hearing, the proposed ward requests counsel.
- 24 2. The guardian ad litem or another person states to the court that the proposed
- 25 ward is opposed to the guardianship petition.

1 3. The court determines that the interests of justice require counsel for the
2 proposed ward.

3 (b) Any attorney obtained under par. (a) or appointed under par. (c) shall be a
4 zealous advocate for the expressed wishes of the proposed ward.

5 (c) ~~If the person requests but is par. (a) 1., 2., or 3. applies but the proposed ward~~
6 ~~is unable to obtain legal counsel, the court shall appoint legal counsel. If the person~~
7 ~~is represented by counsel appointed under s. 977.08 in a proceeding for a protective~~
8 ~~placement under s. 55.06 or for the appointment of a guardian under s. 880.07 (1m),~~
9 ~~the court shall order the counsel appointed under s. 977.08 to represent the person.~~

10 (2) RIGHT TO JURY TRIAL. The proposed ward has the right to a trial by a jury
11 if demanded by the proposed ward, his or her attorney, or the guardian ad litem,
12 except that the right is waived unless demanded at least 48 hours before the time set
13 for the hearing. The number of jurors for such a trial is determined under s. 756.06

14 (2) (b). The proposed ward, his or her attorney, or the guardian ad litem has the right
15 to present and cross-examine witnesses, including any physician or licensed
16 psychologist who reports to the court concerning the proposed ward.

17 (3) RIGHT TO INDEPENDENT MEDICAL EXAMINATION. If requested by the proposed
18 ward or anyone on the proposed ward's behalf, the proposed ward has the right at his
19 or her own expense, or if indigent at the expense of the county where the petition is
20 filed, to secure an independent medical or psychological examination relevant to the
21 issue involved in any hearing under this chapter, and to present a report of this
22 independent evaluation or the evaluator's personal testimony as evidence at the
23 hearing.

1 (4) WARD'S RIGHT TO PAYMENT OF EXPENSES IN TO CONTEST PROCEEDINGS. ~~When If~~
2 a guardian is appointed the court may allow reasonable expenses incurred by the
3 ward in contesting the appointment.

4 (5) RIGHT TO BE PRESENT AT HEARING. The proposed ward has the right to be
5 present at any hearing regarding the guardianship.

6 (6) RIGHT TO HEARING IN ACCESSIBLE LOCATION. The proposed ward has the right
7 to have any hearing regarding the guardianship conducted in a location that is
8 accessible to the proposed ward.

9 **54.44 Hearing.** (1) TIME OF HEARING; PROVISION OF REPORTS. A petition for
10 guardianship shall be heard within 90 days after it is filed. The guardian ad litem
11 and attorney for the proposed ward shall be provided with a copy of the report of the
12 examining physician or psychologist under s. 54.36 at least 96 hours before the time
13 of the hearing.

14 (2) STANDARD OF PROOF. Any determination by the court as to whether the
15 proposed ward is an incompetent shall be by clear and convincing evidence.

16 (3) PRESENCE OF PROPOSED GUARDIAN. The proposed guardian shall be physically
17 present at the hearing unless the court excuses the proposed guardian's attendance
18 or, for good cause shown, permits attendance by telephone.

19 (4) PRESENCE OF PROPOSED WARD. The petitioner shall ensure that the proposed
20 ward attends the hearing unless the attendance is waived by the guardian ad litem.
21 In determining whether to waive attendance by the proposed ward, the guardian ad
22 litem shall consider the effect of the proposed ward's attendance on his or her
23 physical or psychological health in relation to the importance of the proceeding and
24 the proposed ward's expressed desires. If the proposed ward is unable to attend the
25 hearing because of residency in a nursing home or other facility, physical

1 inaccessibility, or a lack of transportation and if the proposed ward, guardian ad
2 litem, advocate counsel, or other interested person so requests, the court shall hold
3 the hearing in a place where the proposed ward may attend.

4 (5) PRIVACY OF HEARING. Every hearing on a petition under s. 880.07 (1m) shall
5 be ~~open~~ closed, unless the proposed ward or his or her attorney acting with the
6 proposed ward's consent moves that it be ~~closed~~ open. If the hearing is closed, only
7 ~~persons in interest~~ interested persons, including representatives of providers of
8 service and their attorneys and witnesses, may be present.

9 (6) PROPOSED GUARDIAN INAPPROPRIATE. If the court finds that the proposed
10 guardian is inappropriate, the court shall request that a petition proposing a suitable
11 guardian be filed, shall set a date for a hearing to be held within 30 days, and shall
12 require the guardian ad litem to investigate the suitability of a new proposed
13 guardian.

14 **54.46 Disposition of petition.** After the hearing under s. 54.44, the court
15 shall dispose of the case in one of the following ways:

16 (1) DISMISSAL OF THE PETITION. If the proposed ward is found not to be an
17 incompetent, the court shall dismiss the petition. The court may also consider an
18 application by the proposed ward for the appointment of a conservator under s. 54.76.

19 (2) PROTECTIVE ARRANGEMENT; TRANSACTIONS; APPOINTMENT OF SPECIAL GUARDIAN.
20 (a) If a proposed ward is found to be a minor or to be an incompetent, the court may,
21 without appointing a guardian, do any of the following if the court first considers the
22 interests of dependents and creditors of the ward and whether a guardianship is
23 necessary, given the ward's functional level:

1 1. Authorize, direct, or ratify any transaction or series of transactions
2 necessary to achieve any security, service, or care arrangement that meets the
3 foreseeable needs of the ward.

4 2. Authorize, direct, or ratify a contract, trust, or other transaction related to
5 the ward's property or financial affairs if necessary as a means of providing for the
6 personal needs of or property management for the ward.

7 (b) The court may appoint a special guardian to assist in the accomplishment
8 of any protective arrangement or transaction under par. (a). The special guardian
9 has any authority conferred by the order of appointment, shall report to the court on
10 all actions taken under the order of appointment, and shall serve until discharged
11 by order of the court. The court may approve a reasonable compensation for the
12 special guardian, except that, if the court finds that the special guardian has failed
13 to discharge his or her duties satisfactorily, the court may deny or reduce the amount
14 of compensation or remove the special guardian.

15 **(3) APPOINTMENT OF GUARDIAN; ORDER.** If the proposed ward is found to be an
16 incompetent or a minor, the court may enter a determination and order appointing
17 a guardian that specifies any powers of the guardian that require court approval, as
18 provided in ss. 54.20 (2) and 54.25 (2), and may provide for any of the following:

19 (a) *Co-guardians.* The court may appoint co-guardians of the person or
20 co-guardians of the estate, subject to any conditions that the court imposes. A
21 co-guardian's individual decision is binding unless otherwise ordered by the court.

22 (b) Power of attorney for health care. If the proposed incompetent ward has
23 executed a power of attorney for health care under ch. 155, ~~find that the power of~~
24 ~~attorney for health care instrument should remain in effect. If the court so finds, the~~
25 ~~court shall so order and shall~~ the court may, for good cause shown, revoke the power

1 ~~of attorney for health care or limit the power of the guardian to make those health~~
2 ~~care decisions for the ward that are not to be made by the health care authority of~~
3 ~~the agent under the terms of the power of attorney for health care instrument, unless~~
4 ~~the guardian is the health care agent under those terms. The ward's power of~~
5 ~~attorney for health care remains in effect unless so revoked or limited.~~

6 (c) *Durable power of attorney.* If the ward has executed a durable power of
7 attorney, the court may, for good cause shown, revoke the durable power of attorney
8 or limit the authority of the agent under the terms of the durable power of attorney.
9 The ward's durable power of attorney remains in effect unless so revoked or limited.

10 (d) *County employee as guardian or conservator.* The court may designate an
11 employee of a county home, county hospital, or county mental hospital to act, if
12 appointed by the court, as guardian of the estate of one or more wards or as
13 conservator for the estate of one or more individuals who so apply, if the ward or
14 individual is a resident of the county home or a patient of the county hospital or
15 county mental hospital. The term of such a guardian or conservator shall terminate,
16 after approval of the employee's accounts by the court, if the employee resigns as
17 guardian or conservator or is removed by the court.

18 (4) FEES AND COSTS OF PETITIONER. (a) Except as provided in par. (b), when a
19 guardian is appointed, the court shall award from the ward's estate payment of the
20 petitioner's reasonable attorney fees and costs, including those fees and costs, if any,
21 related to protective placement of the ward, unless the court finds, after considering
22 all of the following, that it would be inequitable to do so:

23 1. The petitioner's interest in the matter, including any conflict of interest that
24 the petitioner may have had in pursuing the guardianship.

1 2. The ability of the ward's estate to pay the petitioner's reasonable attorney
2 fees and costs.

3 3. Whether the guardianship was contested and, if so, the nature of the contest.

4 4. Any other factors that the court considers to be relevant.

5 (b) If the court finds that the ward had executed a durable power of attorney
6 under s. 243.07 or a power of attorney for health care under s. 155.05 or had engaged
7 in other advance planning to avoid guardianship, the court may not make the award
8 specified in par. (a).

9 (5) BOND. (a) *Form Amount and sufficiency of bond.* Upon the appointment
10 of a guardian of the estate of a ward, except as provided under s. 880.60 (9), the court
11 may require a bond given in accordance with ch. 878 and s. 895.345 The order under
12 sub. (3) shall specify the amount of any bond required to be given by the guardian
13 of the estate, conditioned upon the faithful performance of the duties of the guardian
14 of the estate. No bond may be required for the guardian of the person.

15 (b) *Waiver of Bond.* Unless required under s. 880.60 (9), the court may waive
16 the requirement of a bond at under any of the following circumstances:

17 1. At any time in its discretion or if,

18 2. If so requested in a will wherein in which a nomination appears.

19 3. ~~Whenever~~ If a guardian has or will have possession of funds of the ward with
20 a total value of \$40,000 \$100,000 or less, and the court ~~may direct~~ directs deposit of
21 the funds in an insured account of a bank, credit union, savings bank, or savings and
22 loan association in the name of the guardian and the ward and payable only upon
23 further order of the court. ~~In such event the court may waive the requirement of a~~
24 ~~bond.~~

1 (c) *Blanket bond for county employee guardian or conservator.* ~~The circuit court~~
2 ~~may designate one or more persons who are county institutional employees, whose~~
3 ~~duty it is to act as guardian of one or more estates of incompetent persons upon~~
4 ~~appointment by the court, or as conservator for the estates of persons making~~
5 ~~application therefor, who are residents of the county home, patients of the county~~
6 ~~hospitals or county mental hospitals. The appointments shall be made subject to this~~
7 ~~chapter. The person, before entering upon duties, shall take an official oath. The For~~
8 ~~a person who is appointed as a guardian of the estate or as conservator under sub.~~
9 ~~(3) (d), the court may waive the requirement of a bond or may require the person to~~
10 ~~give bond, with sufficient sureties, to the judge of the court, in a sum an amount,~~
11 ~~approved by the court, that is not less than \$1,000 subject to court approval. The~~
12 ~~bond shall cover the person so designated and appointed in all guardianships and~~
13 ~~conservatorships to which the person has been or shall be is appointed by the court.~~
14 ~~Additional The court may require additional bonds may be required from time to~~
15 ~~time. The expense of surety upon the bonds shall be paid by the county treasurer on~~
16 ~~the order of the circuit judge. The term of the person appointed shall terminate upon~~
17 ~~resignation or removal and approval of the person's accounts by the court.~~

18 (6) ~~WHEN LETTERS TO BE ISSUED~~ LETTERS OF GUARDIANSHIP. When a guardian has
19 given bond as required and the bond has been approved by the judge court, letters
20 under the seal of the court shall be issued to the guardian.

21 **54.48 Protective placement and protective services.** A finding of
22 incompetency and appointment of a guardian under this subchapter ~~chapter~~ is not
23 grounds for involuntary protective placement. ~~Such or the provision of protective~~
24 ~~services. Protective placement and the provision of protective services may be made~~
25 only in accordance with s. ~~55.06~~ ch. 55.

1 **54.50 Limited term guardianships. (1) TEMPORARY GUARDIAN. (a)**
2 *Standard.* If it is demonstrated to the court that a proposed ward's particular
3 situation requires the immediate appointment of a temporary guardian of the person
4 or estate, the court may appoint a temporary guardian under this section.

5 (b) *Appointment Duration and extent of authority.* ~~If, after consideration of a~~
6 ~~petition for temporary guardianship, the court finds that the welfare of a minor,~~
7 ~~spendthrift or an alleged incompetent requires the immediate appointment of a~~
8 ~~guardian of the person or of the estate, or of both, it~~ The court may appoint a
9 ~~temporary guardian for a ward for a period not to exceed 60 days unless further~~
10 ~~extended for 60 days by order of the court. The court may extend the period only~~
11 ~~once., except that the court may extend this period for good cause shown for one~~
12 additional 60-day period. The court may impose no further temporary guardianship
13 on the ward for at least 90 days after the expiration of the temporary guardianship
14 and any extension. The court's determination and order appointing the temporary
15 guardian shall specify the authority of the temporary guardian and shall be limited
16 to those acts that are reasonably related to the reasons for appointment that are
17 specified in the petition for temporary guardianship. The authority of the temporary
18 guardian ~~shall be~~ is ~~limited to the performance of duties respecting specific property,~~
19 ~~or to the performance of particular~~ those ~~acts, as stated in the order of appointment.~~
20 ~~All provisions of the statutes concerning the powers and duties of guardians shall~~
21 ~~apply to temporary guardians except as limited by the order of appointment. The~~
22 ~~temporary guardian shall make the reports the court directs and shall account to the~~
23 ~~court upon termination of authority. The court assigned to exercise jurisdiction~~
24 ~~under chs. 48 and 938 has exclusive jurisdiction over the appointment of a temporary~~
25 ~~guardian of a minor for medical purposes but shall proceed in accordance with this~~

1 ~~section~~ Unless the court first specifically approves, the temporary guardian may not
2 sell real estate or expend an amount in excess of \$2,000.

3 (c) *Procedures for appointment.* All of the following procedures apply to the
4 appointment of a temporary guardian:

5 1. Any person may petition for the appointment of a temporary guardian for
6 an individual. The petition shall contain the information required under s. 54.34 (1),
7 shall specify reasons for the appointment of a temporary guardian and the powers
8 requested for the temporary guardian, and shall include a petition for appointment
9 of a guardian of the person or estate or state why such a guardianship is not sought.

10 2. The petitioner shall serve the petition and order for hearing on the proposed
11 ward before the hearing or as soon as practicable after the hearing, but not later than
12 3 calendar days after the hearing.

13 3. The court shall appoint a guardian ad litem, who shall attempt to meet with
14 the proposed ward before the hearing or as soon as is practicable after the hearing,
15 but not later than 7 calendar days after the hearing. The guardian ad litem shall
16 report to the court on the advisability of the temporary guardianship at the hearing
17 or not later than 10 calendar days after the hearing.

18 4. The court shall hold a hearing on the temporary guardianship no earlier than
19 48 hours after the filing of the petition unless good cause is shown. At the hearing,
20 the petitioner shall provide a report or testimony from a physician or psychologist
21 that indicates that there is a reasonable likelihood that the proposed ward is an
22 incompetent. The guardian ad litem shall attend the hearing in person or by
23 telephone or, instead, shall provide to the court a written report concerning the
24 proposed ward for review at the hearing.

1 5. If the court appoints a temporary guardian, the court shall so notify the ward
2 not later than 3 calendar days after the hearing. If the ward, his or her counsel, the
3 guardian ad litem, or an interested party requests, the court shall order a rehearing
4 on the issue of appointment of the temporary guardian within 10 calendar days after
5 the request. If a rehearing is requested, the temporary guardian may take no action
6 to expend the ward's assets without approval by the court.

7 (2) CERTAIN ADMISSIONS TO FACILITIES. (a) In this ~~section~~ subsection,
8 "incapacitated" means unable to receive and evaluate information effectively or to
9 communicate decisions to such an extent that the individual lacks the capacity to
10 manage his or her health care decisions, including decisions about his or her
11 post-hospital care.

12 (b) An individual under ~~sub. (3) par. (c)~~ may consent to admission, ~~directly from~~
13 ~~a hospital~~ to a facility, as defined in s. 50.01 (1m), of an incapacitated individual who
14 does not have a valid power of attorney for health care and who has not been
15 adjudicated an incompetent under ch. 880 54, if all of the following apply:

16 1. No person who is listed under ~~sub. (3) par. (c)~~ in the same order of priority
17 as, or higher in priority than, the individual who is consenting to the proposed
18 admission disagrees with the proposed admission.

19 2. a. Except as provided in subd. 2. b., no person who is listed under ~~sub. (3) par.~~
20 ~~(c)~~ and who resides with the incapacitated individual disagrees with the proposed
21 admission.

22 b. Subdivision 1. 2. a. does not apply if ~~any of the following applies: the~~
23 individual who is consenting to the proposed admission resides with or is the spouse
24 of the incapacitated individual.

1 3. The individual for whom admission is sought is not diagnosed as
2 developmentally disabled or as having a mental illness at the time of the proposed
3 admission.

4 4. A petition for guardianship for the individual under s. 880.07 54.34 and a
5 petition for protective placement of the individual under s. 55.06 (2) are filed prior
6 to the proposed admission.

7 (c) The following individuals, in the following order of priority, may consent to
8 an admission under ~~sub. (2)~~ par. (b):

- 9 1. The spouse of the incapacitated individual.
- 10 2. An adult son or daughter of the incapacitated individual.
- 11 3. A parent of the incapacitated individual.
- 12 4. An adult brother or sister of the incapacitated individual.
- 13 5. A grandparent of the incapacitated individual.
- 14 6. An adult grandchild of the incapacitated individual.
- 15 7. An adult close friend of the incapacitated individual.

16 (d) A determination that an individual is incapacitated for purposes of ~~sub. (2)~~
17 par. (b) shall be made by 2 physicians, ~~as defined in s. 448.01 (5),~~ or by one physician
18 and one licensed psychologist, ~~as defined in s. 455.01 (4),~~ who personally examine the
19 individual and sign a statement specifying that the individual is incapacitated. Mere
20 old age, eccentricity, or physical disability, either singly or together, are insufficient
21 to make a finding that an individual is incapacitated. Neither of the individuals who
22 make a finding that an individual is incapacitated may be a relative, as defined in
23 s. 242.01 (11), of the individual or have knowledge that he or she is entitled to or has
24 a claim on any portion of the individual's estate. A copy of the statement shall be
25 included in the individual's records in the facility to which he or she is admitted.

1 (e) 1. Except as provided in ~~par. (b)~~ subd. 2., an individual who consents to an
2 admission under this ~~section~~ subsection may, for the incapacitated individual, make
3 health care decisions to the same extent as a guardian of the person may and
4 authorize expenditures related to health care to the same extent as a guardian of the
5 estate may, until the earliest of the following:

- 6 a. Sixty days after the admission to the facility of the incapacitated individual.
7 b. Discharge of the incapacitated individual from the facility.
8 c. Appointment of a guardian for the incapacitated individual.

9 2. An individual who consents to an admission under this ~~section~~ subsection
10 may not authorize expenditures related to health care if the incapacitated individual
11 has an agent under a durable power of attorney, ~~as defined in s. 243.07 (1) (a)~~, who
12 may authorize expenditures related to health care.

13 (f) If the incapacitated individual is in the facility after 60 days after admission
14 and a guardian has not been appointed, the authority of the person who consented
15 to the admission to make decisions and, if ~~sub. (5) (a)~~ par. (e) 1. applies, to authorize
16 expenditures is extended for 30 days for the purpose of allowing the facility to initiate
17 discharge planning for the incapacitated individual.

18 (g) An individual who consents to an admission under this ~~section~~ subsection
19 may request that an assessment be conducted for the incapacitated individual under
20 the long-term support community options program under s. 46.27 (6) or, if the
21 secretary has certified under s. 46.281 (3) that a resource center is available for the
22 individual, a functional and financial screen to determine eligibility for the family
23 care benefit under s. 46.286 (1). If admission is sought on behalf of the incapacitated
24 individual or if the incapacitated individual is about to be admitted on a private pay
25 basis, the individual who consents to the admission may waive the requirement for

1 a financial screen under s. 46.283 (4) (g), unless the incapacitated individual is
2 expected to become eligible for medical assistance within 6 months.

3 (h) If the allegedly incapacitated individual, his or her guardian ad litem, or
4 any interested person objects to the admission, the individual, guardian ad litem, or
5 person may request the court in which the guardianship petition is pending to hold
6 a hearing on whether the individual is incapacitated or whether the admission shall
7 continue before the guardianship hearing. If requested, the court shall hold such a
8 hearing within 7 calendar days after receipt of the request.

9 **54.52 Standby guardianship.** (1) A person may at any time bring a petition
10 for the appointment of a standby guardian of the person or ~~property or both~~ estate
11 of a ~~minor or person found incompetent under s. 880.08~~ to assume the duty and
12 authority of guardianship on the death, incapacity or resignation of the initially
13 appointed guardian may be brought under this chapter at any time. A petition for
14 the appointment of a standby guardian of the person or property or both of a minor
15 to assume the duty and authority of guardianship on the incapacity, death, or
16 debilitation and consent, of the minor's parent shall be brought under s. 48.978 an
17 individual who is determined to be an incompetent under s. 54.10 or a minor.

18 (2) At any hearing conducted under this section the court may designate one
19 or more standby guardians of the person or ~~property~~ estate whose appointment shall
20 become effective immediately upon the death, incapacity, or resignation of the
21 initially appointed guardian or during a period, as determined by the initially
22 appointed guardian, when the initially appointed guardian is temporarily unable to
23 fulfill his or her duties, including during an extended vacation or illness. The powers
24 and duties of the standby guardian shall be the same as those of the initially
25 appointed guardian. The standby guardian shall receive a copy of the court order

1 establishing or modifying the initial guardianship, and the order designating the
2 standby guardian. Upon assuming office, the standby guardian shall so notify the
3 court.

4 **54.54 Successor guardian. (1) APPOINTMENT.** When a guardian dies, is
5 removed by order of the court, or resigns and the resignation is accepted by the court,
6 the court, on its own motion or upon petition of any interested person, may appoint
7 a competent and suitable person as successor guardian. The court may, upon request
8 of any interested person or on its own motion, direct that a petition for appointment
9 of a successor guardian be heard in the same manner and subject to the same
10 requirements as provided under this chapter for an original appointment of a
11 guardian.

12 **(2) NOTICE.** If the appointment under sub. (1) is made without hearing, the
13 successor guardian shall provide notice to the ward and all interested persons of the
14 appointment, the right to counsel and the right to petition for reconsideration of the
15 successor guardian. The notice shall be served personally or by mail not later than
16 10 days after the appointment.

17 SUBCHAPTER V

18 POST-APPOINTMENT MATTERS

19 **54.60 Inventory. (1) INVENTORY REQUIRED.** ~~When a~~ The guardian of the estate
20 ~~has been appointed an inventory shall be made in the same manner and subject to~~
21 ~~the same requirements as are provided for the inventory of a decedent's estate. An~~
22 ~~appraisal of all or any part of the ward's estate shall be made when ordered by the~~
23 ~~court~~ prepare an inventory that lists all of the ward's property and interests in
24 property, including any marital property interest, regardless of how the asset is
25 titled.

1 (2) CONTENTS OF INVENTORY. The inventory shall provide all of the following
2 information with respect to each asset:

3 (a) How the asset is held or titled.

4 (b) The name and relationship to the ward of any co-owner.

5 (c) The marital property classification of the property and, for any property that
6 is marital property, the spouse who has management and control rights with respect
7 to the property.

8 (3) TIME FOR FILING. The guardian of the estate shall file the initial inventory
9 within 60 days after appointment, unless the court extends or reduces the time.

10 (4) NOTICE OF INVENTORY. The court shall specify the persons to whom the
11 guardian shall provide copies of the inventory.

12 (5) FEE. The guardian of the estate shall pay the fee specified in s. 814.66 (1)
13 (b) 2. at the time the inventory is filed.

14 (6) APPRAISAL. The court may order that the guardian of the estate appraise
15 all or any part of the ward's estate.

16 (7) VERIFICATION, EXAMINATION IN COURT. Every guardian shall verify by the
17 guardian's oath that every inventory required of the guardian and verification shall
18 be to the effect that the inventory is true of all property which that belongs to his or
19 her decedent's estate or his or her ward, which has come to the estate of the ward,
20 in the guardian's possession or knowledge, and that upon diligent inquiry the
21 guardian has not been able unable to discover any property belonging to the estate
22 or ward which is not included therein that the inventory does not include. The court,
23 at the request of any party interested, or on its own motion, may examine the
24 guardian on oath in relation thereto, as to the inventory or in relation to any
25 supposed omission from the inventory.

1 **54.62 Accounts. (1) ANNUAL REPORTS.** ~~Every~~ Except as provided in sub. (3)
2 or unless waived by a court, every guardian, ~~except~~ including a corporate guardian,
3 shall, prior to April 15 of each year, file an account under oath specifying that
4 specifies the amount of property received and held or invested by the guardian, the
5 nature and manner of the investment, and the guardian's receipts and expenditures
6 during the preceding calendar year. ~~When ordered by the court,~~ The court may order
7 the guardian ~~shall within 30 days to~~ render and file, within 30 days, a like account
8 for any ~~shorter term~~ less than a year. In lieu of the filing of these accounts before
9 April 15 of each year, the court may, by appropriate order upon motion of the
10 guardian, direct the guardian of an estate to ~~thereafter~~ render and file the annual
11 accountings within 60 days after the anniversary date of the guardian's qualification
12 as guardian, with the accounting period from the anniversary date of qualification
13 to the ensuing annual anniversary date. ~~When any guardian of a minor has custody~~
14 ~~of the ward and the care of the ward's education, the guardian's report shall state the~~
15 ~~time that the ward attended school during the time for which the account is rendered~~
16 ~~and the name of the school.~~ The guardian shall also report any change in the status
17 of the surety upon the guardian's bond. If the court determines it to be in the ward's
18 best interests, the court may specify the persons to whom the guardian shall
19 distribute copies of the account.

20 **(2) DISPLAY OF ASSETS.** Upon rendering the account the guardian shall produce
21 for examination by the court, or ~~some~~ by a person satisfactory to the court, all
22 reported securities, evidences of deposit, and investments ~~reported~~, which shall be
23 described in the account in sufficient detail so that they may be readily identified.
24 ~~It shall be ascertained~~ The court or person satisfactory to the court shall ascertain

1 whether the securities, evidences of deposit, and investments correspond with the
2 account.

3 (3) SMALL ESTATES. (a) If a ward's estate does not exceed \$5,000 in value, the
4 guardian need not file an account under sub. (1) unless otherwise ordered to do so
5 by the court. For the purposes of this paragraph, the value of the ward's estate does
6 not include the ward's income, any burial trust possessed by the ward, or any term
7 or other life insurance policy that is irrevocably assigned to pay for the disposition
8 of the ward's remains at death.

9 (b) If the ward's estate, as calculated under par. (a), increases above \$5,000 in
10 value, the guardian shall so notify the court, which shall determine if an annual
11 account under sub. (1) or a final account under s. 54.66 is required.

12 (4) ANNUAL ACCOUNTS OF MARRIED WARDS. (a) For a married ward, the court may
13 waive filing of an annual account under sub. (1) or permit the filing of a modified
14 annual account, which shall be signed by the ward's guardian and spouse and shall
15 consist of all of the following:

16 1. Total assets of the ward, as determined under ch. 766, on January 1 of the
17 year in question.

18 2. Income in the name of the ward, without regard to ch. 766, and the ward's
19 joint income.

20 3. Expenses incurred on behalf of the ward, including the ward's proportionate
21 share of household expenses if the ward and the ward's spouse reside in the same
22 household, without regard to ch. 766.

23 4. Total assets of the ward, as determined under ch. 766, on December 31 of the
24 year in question.

1 (b) The court shall provide notice of the waiver under par. (a) to any adult child
2 of the ward.

3 (5) EXAMINATION OF ACCOUNTS. The account shall be promptly examined under
4 ~~the court's direction and if it~~ as the court directs. If the account is not satisfactory
5 ~~it shall be examined on 8 days' notice and, the court shall make such order thereon~~
6 order action as justice requires. ~~Notice~~ and shall direct that notice be provided to the
7 guardian ~~may be served personally or by certified mail as the court directs. When~~
8 ~~the examination of a guardian's account is upon notice. If notice is provided to the~~
9 guardian under this subsection, the court may appoint a guardian ad litem ~~of for the~~
10 ward ~~may be appointed~~.

11 (6) ACCOUNTING BY AGENT THIRD PARTIES TO GUARDIAN. ~~The circuit court, upon~~
12 ~~the application of any~~ If a guardian appointed by it a court so requests, the court may
13 order any person ~~who has been entrusted by the guardian with any part of the estate~~
14 ~~of a decedent or ward to appear before the court, and may require the person to render~~
15 a full account, on oath, of any property or papers ~~belonging to of the estate which that~~
16 have come to the person's possession and of his or her ~~proceedings thereon~~ action
17 regarding the property or papers. If the person refuses to appear and render an
18 account, the court may proceed against him or her as for contempt.

19 (7) NOTICE OF FINAL ACTION ON AN ACCOUNT. No action by the court ~~upon any on~~
20 an account shall be is final unless it is upon the court first directs that notice be
21 provided to interested parties.

22 **54.63 Expansion of order of guardianship; procedure.** (1) If the
23 guardian or another interested person submits to the court a written statement with
24 relevant accompanying support requesting the removal of rights from the ward and
25 transfer to the guardian of powers in addition to those specified in the order of

1 appointment of the guardian, based on an expansion of the ward's incapacity, the
2 court shall do all of the following:

3 (a) Appoint a guardian ad litem for the ward.

4 (b) Provide notice to the county department of social services or human services
5 if the ward is protectively placed or receives long-term support services as a public
6 benefit.

7 (2) (a) If, after 10 days after the court has provided notice under sub. (1) (b),
8 or earlier if the court determines that the circumstances are extraordinary, no person
9 submits to the court an objection to the request under sub. (1), the court may amend
10 the order entered under s. 54.46 (3) and enter a determination and the amended
11 order that specifies any change in the powers of the guardian.

12 (b) If, within 10 days after the court has provided notice under sub. (1) (b), a
13 person submits to the court an objection to the request under sub. (1), any person may
14 request a hearing under the procedure specified in s. 54.64 (2).

15 **54.64 Duration Review and termination of guardianship; review. (1)**

16 DURATION. Any guardianship of an individual found to be an incompetent under this
17 chapter shall continue during the life of the incompetent, or ward, until terminated
18 by the court, or as provided under sub (3) or (4). ~~Upon reaching the age of majority,~~
19 ~~an incompetent subject to guardianship under this chapter shall be reviewed by the~~
20 ~~court for the purpose of determining whether the guardianship should be continued~~
21 ~~or modified. The court shall make a specific finding of any rights under s. 880.33 (3)~~
22 ~~which the individual is competent to exercise at the time.~~

23 (2) REVIEW AND MODIFICATION. (a) A ward who is 18 years of age or older, any
24 interested person acting on the ward's behalf, or the ward's guardian may petition
25 for a review of incompetency. ~~Upon such~~ at any time after 180 days after any previous

1 hearing under s. 54.44, or at any time if the court determines that exigent
2 circumstance, including presentation of new evidence, requires a review. If a petition
3 for review is filed, the court shall conduct do all of the following:

4 1. Appoint a guardian ad litem.

5 2. Fix a time and place for hearing.

6 3. Designate the persons who are entitled to notice of the hearing and designate
7 the manner in which the notice shall be given.

8 4. Conduct a hearing at which the ward shall be is present and shall have has
9 the right to a jury trial, if demanded. ~~The ward shall also have the right to counsel~~
10 ~~and the court shall appoint counsel if the ward is unable to obtain counsel. If the~~
11 ~~ward is indigent, counsel shall be provided at the expense of the ward's county of legal~~
12 ~~settlement.~~

13 (b) The ward has the right to counsel for purposes of the hearing under par. (a).
14 Notwithstanding any finding of incompetence for the ward, the ward may retain and
15 contract for the payment of reasonable fees to an attorney in connection with
16 proceedings involving review of the terms and conditions of the guardianship,
17 including the question of incompetence. The court shall appoint counsel if the ward
18 is unable to obtain counsel. If the ward is indigent the county of jurisdiction for the
19 guardianship shall provide counsel at the county's expense.

20 (c) After a hearing under ~~sub. (4)~~ par. (a) or on its own motion, a court may
21 terminate or modify a the guardianship ~~of an incompetent~~.

22 **(3) GUARDIANSHIP TERMINATION OF GUARDIANSHIP OF THE PERSON.** A guardianship
23 of the person shall terminate ~~when~~ if any of the following occurs:

24 (a) The court adjudicates a ~~former ward who was formerly found to be an~~
25 ~~incompetent to be competent~~ no longer an incompetent.

1 (b) The ward changes residence from this state to another state and a guardian
2 is appointed in the new state of residence.

3 (4) ~~GUARDIANSHIP~~ TERMINATION OF GUARDIANSHIP OF THE ESTATE. A guardianship
4 of the estate shall terminate ~~when~~ if any of the following occurs:

5 (a) The court adjudicates a former incompetent ~~or a spendthrift~~ to be capable
6 of handling his or her property competent.

7 (b) The ward changes residence from this state to another state and a guardian
8 is appointed in the new state of residence.

9 (5) ~~DEPLETED GUARDIANSHIPS~~ GUARDIANSHIP. ~~When the~~ If a court determines that
10 the estate of ~~the~~ a ward is below \$5,000 and reduced to a point where it is to the
11 advantage of the ward to dispense with the guardianship, the court may terminate
12 do one of the following:

13 (a) Terminate the guardianship and authorize order disposition of the
14 remaining assets as provided by s. 880.04 54.12 (2). The court, as a part of the
15 disposition, may order a suitable amount paid to the county treasurer under order
16 of the court or reserved in the guardianship to assure the ward a decent burial, a
17 marker and care for the grave. In the case of an insolvent guardianship, the court
18 may order an amount not exceeding \$400 reserved in the guardianship or paid to the
19 county treasurer under order of the court to assure the ward a decent burial the
20 guardian to make appropriate financial arrangements for the burial or other
21 disposition of the remains of the ward.

22 (b) Continue the guardianship, but waive requirements for a bond for the
23 guardian and for accounting by the guardian.

24 **54.66 Final accounts.** (1) ~~SETTLEMENT OF ACCOUNTS~~ RENDER FINAL ACCOUNT.
25 ~~Upon termination of~~ If a court terminates a guardianship, or ~~upon resignation,~~

1 ~~removal or death of a guardian, such~~ resigns, is removed, or dies, the guardian or the
2 guardian's personal representative shall ~~forthwith~~ promptly render the guardian's
3 a final account to the court and to the former ward, the successor guardian, or the
4 deceased ward's personal representative as the case may be. Upon approval of the
5 account and filing proper receipts the guardian shall be discharged and the
6 guardian's bond released, as appropriate. If the ward dies and the guardian and the
7 deceased ward's personal representative are the same person, the deceased ward's
8 personal representative shall give notice of the termination and rendering of the
9 final account to all interested persons of the ward's estate.

10 (2) SMALL ESTATES. ~~When the whole estate of a ward or of several wards jointly,~~
11 ~~under the same guardianship, does not exceed \$1,000 in value, the~~ The guardian
12 ~~shall be required to render~~ of a ward with a small estate, as specified in s. 54.62 (3)
13 (a), need not file a final account only upon the termination of the guardian's
14 guardianship, unless otherwise ordered by the court. The guardian shall instead
15 provide the court with a list of the ward's assets that remain at the time the
16 guardianship terminates, including at the death of the ward.

17 (3) DISCHARGE. After approving the final account and after the guardian has
18 filed proper receipts, the court shall discharge the guardian and release the
19 guardian's bond.

20 (4) SUMMARY SETTLEMENT OF SMALL ESTATES. ~~When~~ If a ward dies leaving an
21 estate ~~which~~ that can be settled summarily under s. 867.01, the court may approve
22 such ~~the~~ settlement and distribution by the guardian, without the necessity of
23 appointing a personal representative.

1 **54.68 Review of conduct of guardian. (1)** CONTINUING JURISDICTION OF
2 COURT. The court that appointed the guardian shall have continuing jurisdiction over
3 the guardian.

4 **(2) CAUSE FOR COURT ACTION AGAINST A GUARDIAN.** Any of the following, if
5 committed by a guardian with respect to a ward or the ward's estate, constitutes
6 cause for a remedy of the court under sub. (3):

7 (a) Failing to timely file an inventory or account, as required under this
8 chapter, that is accurate and complete.

9 (b) Committing fraud, waste, or mismanagement.

10 (c) Abusing or neglecting the ward or knowingly permitting others to do so.

11 (d) Engaging in self-dealing.

12 (e) Failing to adequately provide for the personal needs of the ward from
13 available estate assets and public benefits.

14 (f) Failing to exercise due diligence and reasonable care in assuring that the
15 ward's personal needs are being met in the least restrictive environment consistent
16 with the ward's needs and functional capacities.

17 (g) Failing to act in the best interests of the ward.

18 (h) Failing to disclose conviction for a crime that would have prevented
19 appointment of the person as guardian.

20 (i) Other than as provided in pars. (a) to (h), failing to perform any duties of a
21 guardian or performing acts prohibited to a guardian as specified in ss. 54.18, 54.19,
22 54.20, 54.22, 54.25, and 54.62.

23 **(3) REMEDIES OF THE COURT.** If petitioned by any party and after finding cause
24 as specified in sub. (2), a court may do any of the following:

1 (a) Order the guardian to file an inventory or other report or account required
2 of the guardian.

3 (b) Require the guardian to reimburse the estate of the ward for losses incurred
4 as the result of the guardian's breach of a duty to the ward.

5 (c) Impose a financial penalty on the guardian, including denial of
6 compensation for the guardian.

7 (d) Remove the guardian.

8 (e) Enter any other order that may be necessary or appropriate to compel the
9 guardian to act in the best interests of the ward or to otherwise carry out the
10 guardian's duties.

11 (4) REMOVAL OF PAID GUARDIAN. The court may remove a paid guardian if
12 changed circumstances indicate that a previously unavailable volunteer guardian is
13 available to serve and that the change would be in the best interests of the ward.

14 (5) FEES AND COSTS IN PROCEEDINGS. In any proceeding under sub. (2) or (4), all
15 of the following apply:

16 (a) The court may require the guardian to pay personally any costs of the
17 proceeding, including costs of service and attorney fees.

18 (b) Notwithstanding a finding of incompetence, a ward who is petitioning the
19 court under sub. (2) may retain an attorney, the selection of whom is subject to court
20 approval, and contract for the payment of fees, regardless of whether or not the
21 guardian consents or whether or not the court finds cause under sub. (2).

22 **54.70 Duties in of guardian ad litem for reviews.** In any review of a
23 protective placement under s. 55.06 or of a protective ~~service~~ services order under s.
24 55.05, the guardian ad litem shall do all of the following:

1 (1) Interview the ward to explain the review procedure, the right to an
2 independent evaluation, and the right to counsel ~~and the right to a hearing~~.

3 (2) Provide the information under ~~par. (a)~~ sub. (1) to the ward in writing.

4 (3) ~~Secure~~ Request that the court order an additional medical, psychological,
5 or other evaluation of the ward, if necessary.

6 (4) Review the annual report and relevant reports on the ward's condition and
7 placement.

8 (5) Review the ward's condition, placement, and rights with the guardian.

9 (6) If relevant, report to the court that the ward objects to the finding of
10 continuing incompetency, the present or proposed placement, the position of the
11 guardian, or the recommendation of the guardian ad litem as to the best interests of
12 the ward or if there is ambiguity about the ward's position on these matters.

13 (6m) Provide a summary written report to the court.

14 (7) If relevant, report to the court that the ward requests the appointment of
15 counsel ~~or an adversary hearing~~.

16 (9m) Attend the hearing.

17 **54.72 Guardian compensation and reimbursement.** A guardian of the
18 person or a guardian of the estate is entitled to compensation and to reimbursement
19 for expenses as follows:

20 (1) COMPENSATION. (a) Subject to the court's approval, as determined under par.
21 (b), a guardian shall receive reasonable compensation for the guardian's services.

22 (b) The court shall use all of the following factors in deciding whether
23 compensation for a guardian is just and reasonable:

24 1. The reasonableness of the services rendered.

25 2. The fair market value of the service rendered.

1 3. The necessity of the services.

2 4. Any conflict of interest of the guardian.

3 5. The availability of another to provide the services.

4 6. The value of the ward's estate.

5 7. The hourly or other rate proposed by the guardian for the services.

6 (c) The amount of the compensation may be determined on an hourly basis, as
7 a monthly stipend, or on any other basis that the court determines is reasonable
8 under the circumstances. The court may establish the amount or basis for computing
9 the guardian's compensation at the time of the guardian's initial appointment.

10 (2) REIMBURSEMENT OF EXPENSES. The guardian shall be reimbursed for the
11 amount of the guardian's reasonable expenses incurred in the execution of the
12 guardian's duties, including necessary compensation paid to an attorney, an
13 accountant, a broker, and other agents or service providers.

14 (3) WHEN COURT APPROVAL REQUIRED. A court must approve compensation and
15 reimbursement of expenses before payment to the guardian is made, but court
16 approval need not be obtained before charges are incurred.

17 **54.74 Compensation of guardian ad litem.** ~~On order of the court, the~~
18 ~~guardian ad litem appointed under this chapter shall be allowed reasonable~~
19 ~~compensation to be paid by the county of venue, unless~~ Unless the court otherwise
20 ~~directs or unless the guardian ad litem is appointed for a minor, in which case the~~
21 ~~compensation of the guardian ad litem shall be paid by the minor's parents or the~~
22 ~~county of venue as provided in s. 48.235 (8), the court shall order reasonable~~
23 compensation to be paid by the county of venue to a guardian ad litem appointed
24 under s. 54.40 (1). If the court orders a county to pay the compensation of the
25 guardian ad litem, the amount ordered may not exceed the compensation paid to a

1 private ~~attorneys~~ attorney under s. 977.08 (4m) (b). The guardian ad litem shall
2 receive compensation for performing all duties required under s. 54.40 (4) and for any
3 other acts that are approved by the court and are reasonably necessary to promote
4 the ward's best interests.

5 SUBCHAPTER VI
6 VOLUNTARY PROCEEDINGS;
7 CONSERVATORS

8 **54.76 Conservator; appointment; duties and powers; termination. (1)**

9 Any adult resident who believes that he or she is unable properly to manage his or
10 her property or income may voluntarily apply to the circuit court of the county of his
11 or her residence for appointment of a conservator of the estate. Upon receipt of the
12 application, the court shall fix a time and place for hearing the application and direct
13 to whom and in what manner notice of the hearing shall be given. ~~(7) If an~~
14 ~~application for conservatorship is filed, the~~ The fee prescribed in s. 814.66 (1) (b) shall
15 be paid at the time of the filing of the inventory or other documents setting forth the
16 value of the estate.

17 (2) ~~At the time of such hearing for appointment of a conservator,~~ the applicant
18 shall be personally examined and if the court is satisfied that the applicant desires
19 a conservator and that the fiduciary nominated is suitable, the court may appoint the
20 nominee as conservator and issue letters of conservatorship to the nominee upon the
21 filing of a bond in the amount fixed by the court.

22 (3) A conservator ~~shall have~~ has all the powers and duties of a guardian of the
23 property estate of an incompetent person. ~~The conservator's powers shall cease upon~~
24 ~~being removed by the court or upon death of the person whose estate is being~~
25 ~~conserved~~ individual who is appointed a guardian under s. 54.10.

1 (4) Any ~~person~~ individual whose estate is under conservatorship may apply to
2 the court at any time for termination thereof of the conservatorship or for
3 appointment of a successor conservator. Upon such receipt of the application, the
4 court shall fix a time and place for hearing and direct that 10 days' notice by mail be
5 given to ~~the person's guardian, if any, the conservator and the presumptive heirs of~~
6 the applicant. ~~Upon such~~ At the hearing, the court shall, unless it is clearly shown
7 that the applicant is an incompetent, remove the conservator and order the property
8 restored to the applicant, ~~or if the applicant so desires and the nominee is suitable,~~
9 ~~the court may appoint a successor conservator. (5).~~ If the court shall upon such
10 hearing ~~determine~~ determines at the hearing that the person whose estate is
11 administered by a conservator may be incapable of handling his or her estate, the
12 court shall order the conservatorship continued, or, if the applicant so desires and ~~the~~
13 a nominee is suitable, ~~the court may appoint a successor conservator.~~

14 (5) Appointment of a conservator ~~shall not be~~ does not constitute evidence of
15 the competency or incompetency of the person whose estate is being administered.

16 (6) The powers of a conservator cease upon removal by the court or upon
17 appointment of a guardian for or the death of the individual whose estate is
18 conserved.

19 757.48 (1) (a) Except as provided in s. 879.23 (4), in all matters in which a
20 guardian ad litem is appointed by the court, the guardian ad litem shall be an
21 attorney admitted to practice in this state. In order to be appointed as a guardian
22 ad litem under s. 767.045, an attorney shall have completed 3 hours of approved
23 continuing legal education relating to the functions and duties of a guardian ad litem
24 under ch. 767. In order to be appointed as a guardian ad litem under s. 54.40 (1), an

1 attorney shall have completed 3 hours of approved continuing legal education
2 relating to the functions and duties of a guardian ad litem under ch. 54.

3 (END)